THE

Madras District Municipalities Act, 1920.

[MADRAS ACT No. V OF 1920.]

As amended by Act X of 1930.

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PREFACE

The District Municipalities Act (V of 1920) as amended by Act X of 1930 is an epoch-making legislation for the whole of the Madras Presidency. The Royal Commission on Decentralisation was of opinion that the Municipalities in this Presidency were so efficiently administered that they could stand favourable comparison with municipal institutions in Western countries and recommended that the management of civic affairs should be entrusted to Municipalities with a view to their gaining experience of a democratic form of Government. In pursuance of that recommendation, a resolution was issued by the Government of India, as a result of which, the Local Government introduced a Bill to consolidate and amend the law relating to District Municipalities in 1919. The Bill met with strong opposition as its provisions were not felt satisfactory in view especially of the Montagu-Chelmsford Reforms which were about to be introduced. Nevertheless it was passed into law and placed on the Statute Book.

The Act had hardly begun to operate before the necessity for extending its scope and revising its provisions began to be felt. There is no denying the fact that the provisions of Act V of 1920 were very defective and required thorough over-hauling. Early in 1923 the Government introduced a Bill proposing extensive amendments. Various amending Bills were also introduced by private members of the Legislative Council. In 1928 a Bill modelled on the previous Bills with some important alterations was examined by certain members of the Legislative Council, and their labours resulted in the present Amending Act.

Numerous amendments and alterations have been introduced in the Amending Act giving Municipalities wide powers, materially altering their constitution, and withdrawing them from official management and control to a large extent. The abolition of the system of nominations *in toto*, the provision for a vote of no-confidence in the chairman and vice-chairman, the removal of

the disqualification of women to stand for election and the provision that no officer of Government other than a Village Officer shall be qualified for election or for holding office as a Councillor, are some of the many changes that stand out prominently tending towards the attainment of democratic principles in the constitution and government of Municipalities. The principle of adult franchise as recommended by the Select Committee, had the same been accepted and incorporated in the Act by the Legislature, would have made a land mark in the annals of legislation in India.

No apology is needed for bringing out a publication of this kind. It is hoped that the book will prove useful not only to the legal profession but also to the general public who have necessarily to acquaint themselves with the provisions of an Act which vitally affects them. An attempt has been made to give short notes explaining the scope and objects of the important sections. Case-law throwing light on the interpretation of the language of the sections of the Act has also been incorporated, the very words used by the learned judges in their judgments being extracted as far as possible.

I am much indebted to Mr. C. R. Mahadeva Iyer, Advocate, High Court, Madras, for rendering me very valuable help in incorporating the amendments and also by way of suggestive criticism in the preparation of this book.

MYLAPORE,
December, 1930.

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THE MADRAS DISTRICT MUNICIPALITIES ACT, 1920.

MADRAS ACT No. V OF 1920

(*As amended by Act X of 1930.*)

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APPENDIX

Amendments are printed in italics.

THE MADRAS DISTRICT MUNICIPALITIES ACT.

(ACT V OF 1920.)

[AS AMENDED BY ACT X OF 1930]

An Act to consolidate and amend the law relating to District Municipalities

Preamble.

Whereas it is expedient to consolidate and amend the law relating to district municipalities in the Presidency of Madras and whereas the previous santction of the Governor-General has been obtained under section 79 of the Government of India Act, 1915, to the passing of this Act; It is hereby enacted as follows: –

PART I.

CHAPTER I—PRELIMINARY

Title and extent.

1. (1) This Act may be called the Madras District Municipalities Act, 1920.

(2) *It extends to the whole of the Presidency of Madras, except the City of Madras.*

Case Law:—Sec. 1:—Taxing enactments should be strictly construed and the right to tax should be clearly established. (*Anantakrishna Aiyar, J*) 52. M. 779=57 M.L.J. 471=30 L.W. 236=A.I.R. 1929 M. 746=121 I.C. 839.

When a new liability is introduced by newly enacted provisions of law it has the effect of annulling all contracts made under the repealed provisions. (*Spencer, J*) No doubt there is the maxim that statutory provisions imposing liability on citizens should be construed strictly. (*Sadasiva Aiyer, J*) 1920 M.W.N. 469=57 I.C. 718=39 M.L.J. 58=11 L.W. 574.

The Municipal Councils in India are statutory bodies whose powers are very much circumscribed. The Municipal Corporations in England are in most respects complete governing bodies Though Municipal institutions in India are not departments of Government, their powers are derived from the Government and are controlled by the provisions of the District Municipalities Act. (*Seshagiri Aiyer, J*) 41 M. 538=44 I.C. 308.

The principle of strict construction is less applicable where the powers are conferred on public representative bodies for essentially public purposes. (*Maxwell on Interpretation of Statutes*, 5th Edn. pp. 487, 488).

The powers of a corporation must be strictly construed. To quote from Halsbury's laws of England Vol. VIII Art. 805 " When a corporation is created by a statute its powers are limited and circumscribed by the statute creating it and extend no further than is expressly stated therein or is necessarily and properly required for carrying into effect the purposes of its incorporation." 36 M. 113=21 M.L.J. 790=1911 (2) M.W.N. 95=11 I.C. 669=10 M.L.T. 168.

The language of the enactment is not to be stretched to cover attempts made under the colour of the legislative provisions to interfere in any way wiih the exercise of the ordinary rights of citizens.

The power of Municipal Corporations is strictly within the limits prescribed by the statutes creating them and will not be extended by the courts upon mere inference.

Doubts as to existence of such powers mnst be resolved against the corporation and in favour of the public. 28 M. 520. (see *Logan* v. *Pyne,* 43 Iowa 524) and (1905 A.C. 21).

The provisions of the Madras Local Boards Act and the Madras District Municipalities Act are identical. A.I.R. 1926 M. 1068 = 1926 M.W.N. 676 = 97 I.C. 947.

NOTES :—**Sec. 1 (2)**:—The Madras General Clauses Act (Act I of 1891) defines "City of Madras" in Sec. 3 (5) as follows ;—"City of Madras" shall mean such local area as declared from time to time to be the City of Madras under any Act for the time being in force relating to the Municipal affairs of such city." The above Act defines "Presidency of Madras" in Sec. 3 (24) thus:—"'Presidency of Madras' shall mean the territories within British India for the time being under the administration of the Governor of Fort St. George in Council."

Repeal of enactments.

2. The enactments mentioned in Schedule I are repealed to the extent specified in the fourth column thereof.

Definitions.

3. In this Act unless there is anything repugnant in the subject or context :—

"Adi Dravida."

(1) "*Adi-Dravida*" *means any person professing the Hindu religion and belonging to any of the following communities, namely, the Parians, Pallans, Valluvans, Malas, Madigas, Chakkiliyans, Tottiyans, Cherumans and Holeyas, or to any other community that may be prescribed.*

"Anglo Indian."

(1-A.) "*Anglo-Indian*" *means any person not being a European who is—*

(*i*) *of European descent in the male line, or*

(*ii*) *of mixed Asiatic and non-Asiatic descent whose father, grandfather or more remote ancestor in the male line was born in the continent of Europe, Canada, Newfoundland, Australia, New Zealand, the Union of South Africa or the United States of America.*

"Appoint."

(1-B.) "Appoint" includes to appoint temporarily or in an officiating capacity.

"Appointment."

(2) "Appointment" includes temporary and officiating appointments.

"Building."

(3) "Building" includes a house, out-house, stable, latrine, shed, hut, wall (other than a boundary wall not exceeding eight feet in height) and any other such structure whether of masonry, bricks, wood, mud, metal or any other material whatsoever.

"Building-line." (4) "Building-line" means a line which is in rear of the street alignment and to which the main wall of a building abutting on a street may lawfully extend.

"Carriage." (5) "Carriage" includes any wheeled vehicle with springs or other appliances acting as springs; and all kinds of motor-cars, motor-lorries, motor-omnibuses, motor cycles, bi-cycles, tri-cycles, rikshaws and palanquins.

"Cart." (6) "Cart" includes any wheeled vehicle which is not a "carriage".

"Casual election." (7) "Causal vacancy" means a vacancy occurring otherwise than by efflux of time and "casual election" means an election held on the occurrence of a causal vacancy.

"Company" '(8) "*Company*" *means a company as defined in the Indian Companies Act, 1913, or formed in pursuance of an Act of Parliament or of Royal Charter or Letters Patent, or of an Act of the Legislature of British Possession, and includes any firm or association carrying on business in the Presidency of Madras whether incorporated or not and whether its principal place of business is situated in the said Presidency or not*';

"Election authority." '(*8-A*) "*Election authority*" *means such authority not being the chairman or vice-chairman or a councillor as may be prescribed*;

"European." (*8-B*) "*European*" *means any person of European descent who either was born in or has a domicile in the United Kingdom or in any British possession or in any State of India, or whose father was so born or has or had up to the date of the birth of the person in question such a domicile.*

"Filth." (9) "Filth" includes sewage, nightsoil, dung, dirt, putrid and putrifying substances and all offensive matter.

"Hill-station." (10) "Hill-station" means a place specified in Schedule II and includes any other place which may be notified by the *Local Government* as a hill- station.

"Hut". (11) "Hut" means any building which is constructed principally of wood, mud, leaves, grass or thatch and includes any temporary structure of whatever size or any small building of whatever material made which the council may declare to be a hut for the purposes of this Act.

"Indian-Christian." (*11-A*) "*Indian-Christian*" *means a native of India who is or in good faith claims to be, of unmixed Asiatic descent and who professes any form of the Christian Religion.*

"Latrine."

(12) "Latrine" includes privy, water-closet and urinal.

"Legislative Council."

(12-A) "Legislative Council" means the Legislative Council of the Governor of Madras.

"Local authority."

(12-B) "Local authority" includes a cantonment authority.

"Municipal office."

(13) "Muncipal office" means the principal office of any municipal council.

"Nuisance."

(14) "Nuisance" includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or which is or may be dangerous to life or injurious to health or property.

"Occupier."

(15) "Occupier" includes any person for the time being paying or liable to pay to the owner, the rent or any portion of the rent of the land or building or part of the same in respect of which the word is used.

"Ordinary vacancy."

(16) "Ordinary vacancy" means a vacancy occurring by efflux of time.

"Ordinary election."

and "Ordinary election" means an election held on the occurrence of an ordinary vacancy.

"Owner."

(17) "Owner" includes (*a*) the person for the time being receiving or entitled to receive whether on his own account or as agent, trustee, guardian, manager or receiver for another person, or for any religious or charitable purpose the rent or profits of the property, in connexion with which the word is used, and (*b*) the person for the time being in charge of the animal or vehicle, in connexion with which the word is used.

"Palanquin."

(18) "Palanquin" includes tonjons, manchils and chairs carried by men by means of posts, but not slings or cots used for the conveyance of children or aged or sick people.

"Prescribed."

(19) "Prescribed" means prescribed by the *Local Government* by rules made under this Act.

"Private street."

(20) "Private street" means any street, road, square, court, alley, passage or riding path, which is not a "public street" but does not include a pathway made by the owner of premises on his own land to secure access to or the convenient use of such premises.

"Public street."

(21) "Public street" means any street, road, square, court, alley, passage or riding-path *over which the public have a right of way whether a thorouyhfare or not*, and includes—

(*a*) the roadway over any public bridge or cause-way;

(*b*) the footway attached to any such street, public bridge or cause-way: and,

(*c*) the drains attached to any such street, public bridge or cause-way and the land, whether covered or lies by any pavement, veranda, or other structure, which not on either side of the roadway up to the boundaries of the adjacent property whether that property is private property or property belonging to Government.

"Public water-courses, etc."

(22) "Public water-courses, springs, wells and tanks" include those used by the public to such an extent as to give a prescriptive right to such use.

"Railway."

(23) "Railway" includes a tramway.

"Re-construction."

(24) "Re-construction" of a building includes—

(*a*) the re-erection wholly or partially of a building after more than one-half of its cubical contents has been taken down or burnt down, or has fallen down whether at one time or not;

(*b*) the re-erection wholly or partially of any building of which an outer wall has been taken down or burnt down or has fallen down to or within ten feet of the ground adjoining the lowest storey of the building and of any frame building which has so far been taken down or burnt down or has fallen down as to leave only the frame work of the lowest storey;

(*c*) the conversion into a dwelling house or a place of public worship of any building not originally constructed for human habitation or for public worship, as the case may be, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only or the conversion of a dwelling-house into a factory;

(*d*) the re-conversion into a dwelling-house or a place of public worship or a factory of any building which has been discontinued as, or appropriated for any purpose other than, a dwelling-house or a place of public worship or a factory as the case may be.

"Residence". "Reside"

(25) "Residence"—"Reside."—A person is deemed to have his "residence" or to "reside" in any house if he sometimes uses any portion thereof as a sleeping apartment, and

a person is not deemed to cease to reside in any such house merely because he is absent from it or has elsewhere another dwelling

in which he resides, if he is at liberty to return *to such house* at any time and has not abandoned his intention of returning.

"Rubbish." (20) "Rubbish" means dust, ashes. broken bricks, mortar, broken glass, and refuse of any kind which is not "filth."

"Salary." (27) "Salary" means pay and acting pay or payment by way of commission and includes exchange compensation allowances, but not allowances for house-rent, carriage-hire, or travelling expenses.

"Scavenger." (28) "Scavenger" means a person employed in collecting or removing filth, in cleansing drains or slaughter-houses or in driving carts used for the removal of filth.

"Street-alignment" (29) "Street-alignment" means a line dividing the lands comprised in and forming part of a street from the adjoining land.

"Water-course." (30) "Water-course" includes any river, stream, or channel whether natural or artificial.

"Year" (31) "Year" means the financial year.

NOTES :—**Sec. 3.**—The definitions of 'Adi-Dravida,' 'Anglo-Indian,' 'Election Authority,' 'European,' 'Indian Christian,' 'Legislative Council,' 'Local Authority' and 'ordinary vacancy' have been newly added and the definitions of 'casual vacancy, 'company,' 'ordinary election' have been modified.

Case Law:—**Sec. 3 (1-B)**:—The word "include" is not synonymous with the word "mean," 51 B. 818=A.I.R 1927 B. 401.

The word "mean" is used by the legislature when its intention is to be exhaustive. 9 Bom. H.C.R. 106.

NOTES:—**Sec. 3. (3)**:—Under Act IV of 1884, the words used "constructions appurtenant thereto" do not find a place in Act V of 1920 where the words used are "any other such structvre."

Case Law Sec. 3 (3):—A wing and newly erected tower come within the definition of "building" 1 M.L.J. 37.

NOTES:—**Sec. 3. (8)**:—The definition of 'Company' under the new amending Act has undergone a thorough change and foreign companies having agencies in territories to which the Act is applicable are included in the definition. The decisions under the old Act have no application under the present Act.

Sec. 3 (8-A):—The Select Committee says thus "The Committee has agreed that the functions connected with elections to Municipal Councils should be entrusted to authorities prescribed by rules, but to ensure confidence in election proceedings, has made it clear that such authorities should be persons other than a Chairman, Vice-Chairman or Municipal Councillor."

Case Law:—**Sec. 3 (12)**:—The power given to the Municipality to supervise the erection by a private individual of a latrine must be regarded as a permissive obligation which should be exercised without unnecessary detriment to private rights and without creating unreasonable nuisance. 42 M. 796=37 M.L.J. 224=10 L.W. 147=52 I.C. 921=1919 M.W.N. 618=26 M.L.T. 122.

Sec. 3 (14) :—Allowing prickly pear to spread on to a road used by the public is a public nuisance. 52 M. 79=55 M.L.J. 715=A.I.R. 1928 M. 1235.

NOTES:—**Sec. 3 (15)** :—The Local Boards Act does not define the word "Occupier.'

Sec. 3 (21) :—The words "over which the public have a right of way" occurring after the words "whether a thoroughfare or not" have been placed before those words.

Case Law :—**Sec. 3 (20) & (21)** :—What is vested in urban authorities under statutes similar to the District Municipalities Act is not the land over which the street is formed, but the street *qua* street and the property in the street so vested in the Municipal Council is not general property or a species of property known to the Common Law, but a special property created by statute and vested in a corporate body for public purposes, and such property as it has in the street continues only so long as the street is a highway and when it ceases to be a highway the interest of the corporate body determines. (*Bhashyam Ayyangar, J*) 25 M. 635=12 M.L.J. 37 (19 M. 184 DISS. FROM)

NOTES.—**S. 3 (21)** :—The definition of 'public road' in Sec. 3 (18) of the Local Boards Act is identical with the definition of 'public street' in this section.

Case Law : **Sec. 3 (21)** :—The accused was prosecuted for encroaching upon a municipal street by building buttress wall to his compound wall. The definition of the word "street" in Sec. 3 (21) would include an encroachment upon the land by the side of a street, even though it is uncovered by any pavement or other structure. 47 M.L.J. 917=20 L.W, 834=A.I.R. 1925 M. 186.

Prima Facie the public have a right of way over every part of road poramboke. If a piece of road poramboke lies between the roadway and the boundary of adjacent property, it will be a public road, 54 M.L.J. 261.

Sec. 3 (24) :—In cases where construction is partial only the definition requires that the re-erection to constitute 're-construction' should be done after more than one-half of the cubical contents of the building have been taken down or burnt down. To determine whether there has been a 're-construction' which would constitute an offence under Sec. 317 of the District Municipalities Act the test furnished by the definition of 're-construction' contained in this section should be satisfied. A.I.R. 1927 M. 442=25 L.W. 475=38 M.L.T. 118=100 I.C. 375.

NOTES :—**Sec. 3 (25)** :—For the words "return thereto" the words "return to such house" have been substituted.

Case Law :—The term "residence" is defined in this section. A person must be deemed to reside within the limits of the Municipality if he has a house there though it is not in a habitable state for sixty days in the half-year. A.I.R. 1926 M. 448=50 M.L.J. 77=24 L.W. 218=91 I.C. 933.

"Residence" has to be interpreted in the sense of personal residence. One who neither himself personally resides nor maintains a residence for himself or his family within the Municipality but merely maintains an office for the collection of rent cannot be said to reside within the Municipality. 48 M. 476=48 M.L.J. 428=A.I.R. 1925 M. 607=21 L.W. 457.

NOTES:—**Sec. 3 (31)** :—Section 3 (10) of the Madras General Clauses Act I of 1891 defines financial year thus :—"Financial year shall mean the year commencing on the first day of April."

PART II,—ESTABLISHMENT, CONSTITUTION AND GOVERNMENT OF DISTRICT MUNICIPALITIES.

CHAPTER II.—CREATION AND ABOLITION OF MUNICIPALITIES.

Creation of municipalities.

4. (1) The *Local Government* may by notification declare *their* intention —

(*a*) to constitute as a municipality any town, village, hamlet, bazaar, station or other local area or any group of the same in the immediate neighbourhood of one another; or

(*b*) to exclude from a municipality any local area comprised therein and defined in such notification; or

(*c*) to include within a municipality any local area in the vicinity thereof and defined in such notification:

Provided that no cantonment shall be included within a municipality without the sanction of the Governor-General in Council previously obtained.

(2) Any inhabitant of a local area or taxpayer of a municipality in respect of which any such notification has been published, may, if he desires to object to anything therein contained, submit his objection in writing to the *Local Government* within six weeks from the publication of the notification and the *Local Government* shall take all such objections into consideration.

(3) When six weeks from the publication of the notification have expired, and the *Local Government have* considered the objections, if any, which have been submitted, *they* may, as the case may be, by notification declare to be a municipality, or exclude from or include in a municipality, the local area or any portion thereof.

(4) This Act shall come into force in, or cease to apply to, any municipality or part thereof, as the case may be, on such date as may be specified in the notification under sub-section (3).

(5) If any local area in which the Madras Local Boards Act, *1920 (Mad. Act. IV of 1920)* is in force is constituted as or included in a municipality, *the Local Government may pass such orders as they may deem fit as to the transfer to the council of such municipality or disposal otherwise of the assets, or* institutions *of any local board in the local area and as to the discharge of the liabilities, if any, of such local board relating to such assets or institutions.*

NOTES :—**Sec. 4** :—The new Act by sec. 2 (1) substitutes the words "Local Government" for the words "Governor-in-Council" wherever they occur in Act V of 1920. The definition of Local Government in the Madras General Clauses Act (Act I of 1891) is as follows:

"Local Government" shall mean 'the Governor of Fort St. George in Council.'

Government of India Act 1919, Sec. 134—Definitions :—

In this Act, unless the context otherwise requires,

(1) * * * *

(2) "Governor-in-Council", means "Governor-in-Executive Council".

(3) * * * *

(4) "Local Government" means in the case of Governors' Provinces, The Governor in Council or The Governor acting with Ministers (as the case may require) and in the case of a province other than a Governor's province, a Lt. Governor in Council, a Lt. Governor or Chief Commissioner.

Section 46 :—(Local Government in Governors' Provinces):—

(1) The Presidency of Fort William in Bengal, Fort St. George and Bombay and the provinces known as The United Provinces, The Punjab, Behar and Orissa, The Central Provinces and Assam, shall each be governed in relation to reserved subjects by a Governor-in-Council and in relation to transferred subjects (save as otherwise provided by this Act) by the Governor acting with Ministers appointed under this Act.

Case Law—Sec. 4 :—The powers of municipal councils are derived from the Government and are controlled by the provisions of the Act. 41 M 538=44 I.C. 308.

Abolition of municipalities.

5. (1) The *Local Government* may by notification abolish any municipality to which this Act applies:

Provided as follows :—

(*a*) the *Local Government* shall before *they* issue such notification, communicate to the municipal council the grounds on which *they* propose to do so, fix a reasonable period for the municipal council to show cause against the proposal and consider its explanations and objections, if any,

(*b*) the notification shall contain a statement of the *Local Government's* reasons and shall be laid on the table of the Legislative Council.

(2) From such date as may be specified in such notification, this Act and all notifications, rules, by-laws, regulations, orders, directions and powers issued, made or conferred under this Act, shall cease to apply to the area previously comprised in the municipality; the balance of the municipal fund and all other property vested in the municipal council shall vest in His Majesty, and the liabilities of the council shall be transferred to His Majesty's Secretary of State for India in Council.

(3) All property vested in His Majesty under sub-section (2) shall be applied under the orders of the *Local Government* to discharge the liabilities imposed on His Majesty's Secretary of State for India in Council by that sub-section or for the promotion of the safety, health, welfare and convenience of the inhabitants of the area previously comprised in the municipality.

CHAPTER III.—CONSTITUTION OF MUNICIPAL AUTHORITIES

Authorities.

The municipal authorities and their incorporation.

6. (1) The municipal authorities charged with carrying out the provisions of this Act are a council and its chairman.

(2) The municipal council shall by the name of the municipality be a body corporate, shall have perpetual succession and a common seal and subject to any restriction or qualification imposed by this or any other enactment shall be vested with the capacity of suing or being sued in its corporate name, of acquiring, holding and transferring property movable or immovable, of entering into contracts and of doing all things necessary for the purpose of its constitution.

NOTES:—**Sec. 6.**—Sec. 77 (A) empowers the Local Government to constitute a municipal service by notification. In view of this section it would appear that officers and servants of municipal councils appointed under the rules framed in pursuance of the notification would be Government servants.

Case Law :—Sec 6 :—The Municipality is constituted by the Local Government and it can be abolished by the same authority. The Local Government can control the activities of the Municipality in various ways but it does not necessarily follow from these considerations that the Municipality is an officer of the Government. The District Municipalities Act does not constitute the Municipality a servant of the Government. The Act confers in the Municipality wide powers which are given to it to be exercised at its own discretion and without consulting the Government. The Municipality can acquire, hold and transfer property movable and immovable and enter into contracts. It can levy taxes to provide funds to carry on its own administration and the Municipal fund raised remains its own till it is abolished. Subject to certain restrictions the Municipality can appoint its own servants. These are not Government servants but are Municipal servants. The Municipality constituted under this Act cannot be described as a public officer within the meaning of Sec. 80 of the Code of Civil Procedure. 59 M.L.J. 690.

"Under Section 21 of Act IV of 1884, the council is a coporation with power to contract and to do all things necessary for the purpose of its constitution, the Municipal fund being held by it under section 27 for purposes of the Act, of which it is not denied, the promotion of sanitation by the provision of lanes is one" (*Per Oldfield J*). 35 M.L.J. 251=48 I.C. 128.

NOTES:—"Assuming however that no doubt exists as to the powers general and special with which a Corporation is endowed and that it is both keeping within its authorisation and acting *bona fide* the court will not interfere with its operation. It will be deemed the best Judge, not only of what is conducive to its own interest but also of what is proper and fitting as regards third parties and it will be left unchecked to take or not to take lands etc." Brice on The Law of Corporations 3rd Edn. at p. 475.

Constitution of council.

7. (1) The municipal council shall consist of such number of councillors as may be notified by the *Local Government* in accordance with the following table:—

Municipalities with a population—		Number of councillors.
Not exceeding 20,000 at the last census	...	16
Exceeding 20,000 but not exceeding 30,000	...	20
Exceeding 30,000 but not exceeding 40,000	...	24
Exceeding 40,000 but not exceeding 50,000	...	28
Exceeding 50,000 but not exceeding 100,000	...	32
Exceeding 100,000	...	36

(2) *All the councillors of every municipality shall be elected.*

(3) *In any municipality, the Local Government may in their discretion by notification from time to time reserve seats for*

(*a*) *Muslims.*

(*b*) *Indian Christians.*

(*c*) *Adi-Dravidas,*

(*d*) *Europeans,*

(*e*) *Anglo-Indians, or*

(*f*) *Women*

and determine the number of such seats :

Provided that the total number of seats so reserved shall not exceed one-fourth of the strength fixed for the municipal council under sub-section (1) :

Provided further that no seat shall be reserved for any of the communities mentioned in clauses (a) to (e) if at the last census such community constituted more than one-half of the total population of the municipality.

(4) *In reserving seats for the communities mentioned in clauses (a) to (e) of sub-section (3) the Local Government shall have due regard to their number and importance.*

(5) *Nothing contained in sub-section (3) shall be deemed to prevent members of any community or women, for whom seats have been reserved thereunder in any municipal council, from standing for election to the non-reserved seats in the council.*

NOTES :—**Sec. 7** :—The system of nomination has been abolished, but a provision has been made for reservation of seats for women and for certain communities.

Case Law :—**Sec. 7** :—The status of a Municipal Councillor is the creation of the section and 'election' in the section undoubtedly means a 'valid' election. It is only such a valid election as could confer any status. 21 M.L,J. 878=36 Mad. 120=10 M.L.T. 219.

Term of elected councillors and filling up of elective seats.

8. (1) The term of office of councillors shall, save as otherwise expressly provided *in this Act*, be *three* years beginning and expiring at noon on the first day of November.

(2) *Ordinary vacancies* in the office of *a* councillor shall be filled at ordinary elections which shall be fixed by the *election authority* to take place on such *day or* days in the months of August and September next preceding the vacancies as he thinks fit.

Provided that the Local Government may for sufficient cause direct or permit the holding of any ordinary election after the end of September.

(3) *A councillor elected at an ordinary election held after the occurrence of a vacancy shall enter upon office forthwith but shall hold office only so long as he would have been entitled to hold office if he had been elected before the occurrence of the vacancy.*

(4) A casual vacancy in the office of *a* councillor shall be filled at a casual election which shall be fixed by the *election authority* to take place as soon as may be after the occurrence of the vacancy:

Provided that no casual election shall be held to fill a vacancy occurring within three months before the ordinary date of retirement and that such vacancy shall be filled at the next ordinary election.

(5) A councillor elected at a casual vacancy shall enter upon office forthwith but shall hold office so long only as the councillor in whose place he is elected would have been entitled to hold office if the vacancy had not occurred.

NOTES. **Sec. 8 (1)**:—"Save as otherwise expressly provided in this Act". See Secs. 50 and 60.

Sec. 8 (2):—There is a proviso added to this Sub-section. Sub-section 8 (3) has also been added evidently with a view to make it clear that the tern of office of a Concillor elected at an ordinary election held after the end of September will be only for the remaining period during which the council continues.

Sec. 8. (5):—This sub-section is subject to sub-section 3 of Section 50.

Procedure when no councillor is elected.

9. (1) *If at an ordinary or casual election held under section 8 no councillor is elected a fresh election shall be held on such day as the election authority may fix:*

(2) *If at such fresh electian, no councillor is elected, the council may in the manner prescribed elect a qualified person to fill the vacancy.*

(3) The term of office of a councillor *elected* under this section shall expire at the time at which it *would have expired* if he had been elected at the ordinary or casual election as the case may be.

NOTES:—**Sec. 9**:—Under Act V of 1920, a retiring councillor would be deemed to have been re-elected if no councillor was elected at an ordinary election. Under the amending Act, the retiring councillor cannot continue to be a councillor under any circumstances. A fresh election has to be held and if no councillor is elected at such an election, the Council is empowered to elect a qualified person.

Case Law:—**Sec. 9. (1)**:—This section does not cover cases where elections have been contemplated but on account of various irregularities committed by the Chairman or by others, no councillor was elected.

This section seems to apply only to cases where a valid election has been held under the previous section. The scheme of the Act shows that an election begins by the Chairman fixing certain dates and ends with the date on which the polling is fixed. If serious irregularities going to the root of the proceedings happen in the course of such election, it may be that the election must be considered void, and in such cases, it cannot be said that an election has been held within the meaning of section 9 (1). 53 M.L.J. 816=A.I.R. 1928 M. 111=39 M.L.T. 591=1927 M.W.N. 740=106 I. C. 205.

NOTES;—**Sec. 9 (1)**:—The words 'An ordinary election held under the previous section," are not redundant. There may be cases where an election may be properly held without any councillor being elected. A simple case is where all the voters for some reason or other do not go to the polling station to exercise their franchise;

The wording is now changed and it is made clear that an election should be held at the beginning.

Case Law:—Sec. 9 (1);—Section 9 (1) of Act V of 1920 is not meant to apply to cases where an election has been held and is subsequently declared void. If the section. applied to all cases of invalid election, there is no reason why it should not say so in terms but it purports to apply only to a case where no councillor is elected. 46 M. L. J. 494=19 L. W. 632=A. I. R. 1924 M. 764.

NOTFS: **Sec. 9** (1):—This section as amended does not create any difficulties, as this section is definite with regard to fresh elections when no councillor is elected.

10. [*Omitted.*]

No councillor to receive remuneration.

11. *No councillor shall receive or be paid from the funds at the disposal of or under the control of the council any salary or other remuneration for services rendered by him in any capacity whatsoever.*

The chairman and vice-chairman of the municipality.

"**12.** (*1*) *Every council shall elect one of its members to be its chairman.*

(*2*) *Subject to the sanction of the Local Government, the council may fix a salary for the chairman and the amount thereof. Except as provided in this sub-section, no chairman shall receive any salary or other remuneration.*

(*3*) *The council shall elect one of its members other than the chairman to be its vice-chairman.*

(*4*) *A chairman shall be deemed to have vacated his office on the expiry of his term of office as a councillor or on his otherwise ceasing to be a councillor.*

(*5*) *A vice-chairman shall be deemed to have vacated his office—*

(*i*) *on the expiry of his term of office as a councillor or on his otherwise ceasing to be a councillor, or*

(*ii*) *on his election as chairman.*

(*6*) *When the office of chairman is vacant, the vice-chairman shall exercise the functions of the chairman until a new chairman assumes office.*

(*7*) *When the office of chairman is vacant and there is either a vacancy in the office of vice-chairman or the vice-chairman has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, the revenue divisional officer shall, after giving notice of not less than seven clear days to the councillors, convene a meeting for the election of a chairman and until a new chairman or vice-chairman is elected and assumes office, or the vice-chairman returns to jurisdiction or recovers from his incapacity as the case may be, the revenue divisional officer shall, notwithstanding anything contained in this Act or in the rules or notifications issued thereunder, be ex officio member and chairman of the council.*

(*8*) *An outgoing chairman or vice-chairman is eligible for re-election. Eaplauation.—A new chairman or vice-chairman shall be deemed to have assumed office on his being declared elected as such.*

Procedure when no chairman or vice-chairman is elected.

12-A. *If at an election held under section 12 no chairman or vice-chairman is elected, a fresh election shall be held.*

NOTES. **Sec. 12**:—The City Municipal Act (Act IV of 1919) in Sec. 29 provides that the President or Chairman shall be entitled to hold office till the election of his successor, provided that in the meantime he does not cease to be a councillor. No such provision for the continuance of the out-going Chairman is made under this Act. It would appear that Sub-sec. (7) has been added with a view to cover cases where the offices of Chairman and Vice-Chairman are vacant after fresh elections.

Functions of the several authorities.

The Chairman

Functions of the chairman.

13. The chairman of the municipal council shall

(*a*) make arrangements for the election of the vice-chairman;

(*b*) convene the meetings of the council;

(*c*) carry into effect the resolutions of the council;

(*d*) furnish to the council such periodical reports regarding the progress made in carrying out the resolutions of that body in the collection of taxes as the council may direct;

(*e*) perform all the duties and exercise all the powers specifically imposed or conferred on the chairman by this Act and subject, whenever it is hereinafter expressly so provided, to the sanction of the council, and subject to all other restrictions, limitations and conditions, hereinafter imposed, exercise the executive power for the purpose of carrying out the provisions of this Act and be directly responsible for the due fulfilment of the purposes of this Act.

The chairman to be member of every committee of the council.

14. The chairman shall by virtue of his office be a member of every committee of the council.

Emergency powers of chairman.

15. The chairman may in cases of emergency direct the execution of any work or the doing of any act which would ordinarily require the sanction of the council, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public and may direct that the expense of executing such work or doing such act shall be paid from the municipal fund:

Provided that—

(*a*) he shall not act under this section in contravention of any order of the council prohibiting the execution of any particular act, and

(*b*) he shall report the action taken under this section and the reasons therefor to the council at its next meeting.

NOTES. **Sec. 15**:—This section corresponds to Sec. 22 of the Madras Local Boards Act.

Under this section, the Chairman of a Municipality cannot engage a Vakil to defend a suit brought against the Municipality without the sanction of the Council, as his power to defend suits is restricted under Sec. 351 (e) which requires that he should get the sanction of the Council.

With regard to the powers of a President of a Local Board to defend suits, See 56 M.L.J. 110.

Duty of paid chairman.

16. A paid-chairman shall devote his whole time to the duties of his office and shall not engage in any order profession, trade or business *whatever.*

17. [*Omitted.*]

Delegation and devolution of functions of chairman.

18. (*1*) *The chairwan may, by an order in writing, delegate any of his functions to the vice-chairman :*

Provided that he shall not delegate any functions which the municipal council expressly forbids him to delegate.

(2) If the chairman has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, his functions. except those of promoting, withholding promotion from, reducing, removing or dismissing any municipal officer or servant, shall, during such absence or incapacity, devolve on the vice-chairman :

Provided that where the absence from jurisdiction of the chairman is within the Presidency of Madras and is on business connected with the municipality, the chairman's functions shall not, except to the extent, if any, to which functions have been delegated by him under sub-section (*1*), *devolve on the vice-chairman.*

(*3*) *If the vice-chairman also has been continuously absent from jurisdiction for more than fifteen days or is incapacitated or if the office of vice-chairman is vacant, the chairman may, by an order in writing, delegate any of his functions to any councillor who shall be styled 'chairman-delegate' during the period of delegation :*

Provided that--

(i), when an order of delegation made under this sub-section is in force, no further order of delegation of any functions shall be made in favour of any other than the councillor in whose favour the order in force was made ;

(*ii*) *no delegation under this sub-section shall, without the special sanction of the council, be made for any period exceeding in the aggregate ninety days in any year in the case of an unpaid chairman and fifteen days in any year in the case of a paid chairman ; and*

(*iii*) *every order made under this sub-section shall be communicated forthwith to the council and to the district collector.*

(*4*) *Subject to any restrictions that the council may impose,t he chairman may, by an order in writiny, delegate any of his executive functions to any officer or servant of the council or to any officer of Government.*

(5) *The exercise or discharge of any functions delegated under sub-sections (1), (3) and (4) shall be subject to such restrictions, limitations and conditions if any as may be laid down by the chairman and shall also be subject to his control and revision. The chairman shall also have power to control and revise the exercise or discharge of any functions devolving on the vice-chairman under sub-section (2).*

Case Law. Sec. 18:—The person whom the Chairman lawfully authorises to exercise his powers including the power to lodge a complaint under Sec. 280 would also be entitled to exercise that power so long as the authorisation lasts. (per *Abdur Rahim J*). 12 L. W. 427=1920 M.W.N. 648=60 I. C. 1003.

The words " Absence " and " Incapacity " are used in Sec. 18 separately and as not implying each other, and if the incapacity of the Chairman to preside had been contemplated in Sec. 28, similar language to that used in Sec. 18 would have been employed. 46 M. 123=44 M.L.J. 69=16 L.W, 898=A.I.R. 1923 M. 254

The Council.

Functions of the council.

19. Subject to the provisions of this Act the municipal administration shall vest in the council, but the council shall not be entitled to exercise functions expressly assigned by or under this Act or any other law to the chairman.

Duties and powers of individual councillors.

20. (1) Any councillor may call the attention of the chairman to any neglect in the execution of municipal work, to any waste of municipal property, or to the wants of any locality and may suggest any improvements which may appear desirable.

(2) Every councillor shall have the right to move resolutions and to interpellate the chairman on matters connected with the municipal administration subject to such regulations as may be framed by the council.

(3) Every councillor shall have access during office hours to the records of the council after giving due notice to the chairman, provided that the chairman may for reasons given in writing forbid such access.

Council's power to call for records.

21. The council may at any time require the chairman to produce any document which is in his custody.

The chairman shall comply with every such requisition unless in his opinion immediate compliance therewith would be prejudicial to the interests of the council or of the public, in which case he shall make a declaration in writing to that effect and shall, if required by the council, refer the question to the district collector, whose decision shall be final.

Obligation of the chairman to carry out council's resolutions.

22. The chairman shall be bound to give effect to every resolution of the council unless such resolution is modified, suspended or cancelled by a controlling authority.

Appointment of committees.

23. A council may *constitute* committees for the *purpose of exercising such powers, discharging such duties or performing such functions as it may delegate to them* ; or may appoint individual *councillors,* or committees, to enquire into and report *or advice* on *any matters which it may refer to them.*

Appointment of special committees.

24. It shall be lawful for the council from time to time by a resolution supported by not less than one-half of the sanctioned strength of the council to appoint as members of any committee any persons who are not councillors but who may in the opinion of such council possess special qualifications for serving on such committee. But the number of persons so appointed on any committee shall not, exceed one-third of the total number of members of such committee. All the provisions of this Act relating to the duties, powers, liabilities and disqualifications and disabilities of councillors shall, save as regards the disqualification on the ground of *residence*, be applicable, so far as may be, to such persons.

Rules and regulations for proceedings of council.

25. The council shall observe the rules in Schedule III and may make regulations not inconsistent therewith or with other provisions of this Act or any rules made by the *Local Government* in regard to the following matters—

(*a*) the time and place of its meetings ;

(*b*) the manner in which notice thereof shall be given ;

(*c*) *the preservation of order and* the conduct of proceedings at meetings, *and the powers which the chairman may exercise for the purpose of enforcing his decisions on points of order* ;

(*d*) the division of duties among the members of the council ;

(*e*) *the constitution and procedure of committees ;*

(*f*) *the delegation of its powers, duties or functions*—

(*i*) *to the chairman, a councillor, an officer or servant of the council or an officer of Government ; or*

(*ii*) *to a committee constituted under clause* (*e*) *or to its chairman or to any one or more of its members ;*

(*g*) the persons by whom receipts may be granted for money paid to the council ; and

(*h*) all other similar matters.

Case Law : Sec. 25 :—Power to make regulations is conferred on the Municipal Council by Sec. 25 and not by Sec. 312. 42 M.L.J. 149=A.I.R. 1921 M. 713=66 I.C. 429.

Appointment of joint committee.

26. (*1*) *A council may, and if so required by the Local Government shall, join with one, or more than one, other local authority in constituting a joint committee for any purpose in which they are jointly interested or for any matter for which they are jointly responsible.*

(*2*) *A joint committee may include persons who are not members of the local authorities concerned but who may in their opinion possess special qualifications or special interest for serving on such committee:*

Provided that the number of such persons shall not, exceed one-third of the total number of members of the joint committee.

(*3*) *The constitutions of a joint committee shall be by means of regulations which shall not, except in the cases referred to in sub-sections* (*6*) *and* (*7*) *have effect unless assented to by each of the local authorities concerned.*

(*4*) *The regulations shall determine—*

(*a*) *the total number of members of the joint committee ;*

(*b*) *the number who shall be members of the local authorities concerned and the number who may be outsiders ;*

(*c*) *the persons who shall be members of the joint committee or the manner in which they shall be elected or appointed ;*

(*d*) *the person who shall be chairman of the joint committee or the manner in which he shall be elected or appointed ;*

(*e*) *the term of office of members and chairman ;*

(*f*) *the powers, being powers exercisable by one or more of the local authorities concerned, which may be exercised by the joint committee ; and*

(*g*) *the procedure of the joint committee.*

(*5*) *Regulations made under sub-sections* (*3*) *and* (*4*) *may be varied or revoked provided that all the local authorities concerned assent to such variation or revocation.*

(*6*) *If the Local Government take action under sub-section* (*1*), *they may issue such directions as they think necessary or desirable in respect of all or any of the matters referred to in sub-sections* (*3*) *and* (*4*).

(*7*) *If any difference of opinion arises between local authorities under any of the foregoing provisions of this section, it shall be referred to the Local Government whose decision shall be final.*

Notification of election.

27. All elections of chairmen, vice-chairmen and members of municipal council shall be notified in the *Fort St. George Gazette.*

Presidency of council.

28. (*1*) *Every meeting of the council shall be presided over by the chairman; in his absence by the vice-chairman; and in the absence of the both the chairman and the vice-chairman, by a councillor chosen by the meeting to preside for the occasion.*

(2) The chairman shall preserve order and shall decide all points of order arising at or in connexion with meetings. There shall be no discussion on any point of order and the decision of the chairman on any point of order shall, save as is otherwise expressly provided in this Act, be final.

(3) A vice-chairman or councillor presiding for the occasion shall, for that meeting, *and during the period that he presides over it* have all the powers of the chairman.

Case Law: Sec. 28:—The word "Chairman" in section 28 includes "Chairman-delegate" in cases where there is no Vice Chairman. 46 M. 123=44 M.L.J. 69=16 L.W. 898=A.I.R. 1923 M. 254.

The plaintiff and the defendant were rival candidates at an election and the plaintiff called the defendant "a rowdy and suspect." The defendant retorted by saying that the plaintiff was a "drunkard." After the election was over, the defendant was asked by some people as to what happened inside and he seems to have told them that the plaintiff was a drunkard. So far as the expression used inside the meeting is concerned, he was no doubt privileged because he was directly attacked by the plaintiff and he retorted by saying that the plaintiff was an undesirable candidate inasmuch as he was a drunkard. If words of abuse are used during the course of a heated quarrel, such words of abuse would not be actionable. 52 M.L.J. 87=25 L.W. 770=A.I.R. 1927 M. 329.

Section 32 of the Madras Local Boards Act corresponds to this section. Under that section, it was held that as the President is empowered to preserve order, a member of the Board, who according to the President has ceased to be a member by failure to attend five previous meetings, deliberately flouts the President's authority and in so doing is injured by some act of the President, the injuries sustained by him are of his own seeking and the President, is not liable to be prosecuted. 52 M. 446=56 M.L.J. 157 = 28 L.W 695.

29. [*Omitted.*]

Councillor when to abstain from taking part in discussion and voting.

30. (1) No councillor shall vote on, or take part in, the discussion of any question coming up for consideration at a meeting of the council or any committee, if the question is one in which, apart from its general application to the public, he has any direct or indirect pecuniary interest by himself or his partner.

(2) The chairman may prohibit any councillor from voting or taking part in the discussion of any matter in which he believes such *councillor* to have such interest, or he may require such *councillor* to absent himself during the discussion.

(3) Such *councillor* may challenge the decision of the chairman, who shall thereupon put the question to the meeting. The decision of the meeting shall be final.

(4) If the chairman is believed by any councillor present at the meeting to have any such pecuniary interest in any matter under discussion, he may, if a motion to that effect be carried, be required to absent himself from the meeting during such discussion.

(5) The councillor concerned shall not be entitled to vote on the question referred to in sub-section (3), and the chairman concerned shall not be entitled to vote on the motion referred to in sub-section (4).

Explanation.—"Chairman" in this section includes a vice-chairman, or councillor presiding for the occasion.

Power of chairman, vice-chairman or councillor to resign.

31. Any councillor other than the chairman and *any vice-chairman* may resign his office by giving notice to the chairman; the chairman may resign by giving notice to the council. *Such resignation shall take effect in the case of a councillor or vice-chairman from the date on which it is received by the chairman and in the case of a chairman from the date on which it is placed before the council.*

NOTES:—**Sec. 31**:—Under Act V of 1920, there was no provision as to when the resignations of Councillor, Vice-Chairman and Chairman should take effect. The amending Act has added a provision as to when the resignations are to take effect with regard to the resignations of councillor and Vice-Chairman. This section says that it is to take effect the date on which it is received by the Chairman. But with regard to the Chairman, though the Section says that the resignation of the Chairman is to take effect the date on which it is placed before the Council, it is submitted that the legislature should have made it clear as to how it is to be placed before the Council as it has done under Sec. 16 of the Madras Local Boards Act where the words "placed before a meeting of the local Board", do find a place.

Even as the section is now worded, the intention of the legislature seems to be and the wording of the section is also capable of the interpretation that the resignation by the Chairman of his office should be placed before a meeting of the Council.

This section does not require that the resignation should be accepted in either case. Under Sec. 16 of Madras Local Boards Act before it was amended, it has been held that where the President of a Local Board sent to each member of the Board a tender of his resignation, and the same was received by each member separately, but was not considered at any duly constituted meeting of the Board, the resignation did not take effect as the action of the President in sending such notice did not amount to "giving notice to the Board within the meaning of that section." It was also held that an acceptance of resignation was not necessary. See 52 M. 446=56 M.L.J. 157=A.I.R. 1929 M. 8=28 L.W. 695.

The same principle would hold good under this section also.

Acts of municipal council, etc., not to be invalidated by informality etc.

32. *No act of a municipal council or of a committee thereof or of any person acting as chairman, vice-chairman or member of the municipal council or committee shall, be deemed to be invalid by reason only of a defect in the establishment of the municipality or committee or on the ground that the chairman, vice-chairman or any member of the council or committee was not entitled to hold or continue in such office by reason of any disqualification or by reason of any irregularity or illegality in his election or appointment or by reason of such act having been done during the period of any vacancy in the office of chairman, vice-chairman or member of the council or committee.*

Administration Report.

Annual administration Report.

33. (1) As soon as may be after the first day of April in every year, and not later than such date as may be fixed by the *Local Government*, the municipal council shall submit to the *Local Government* through the district collector a report on the administration during the preceding year in such form and with such details as the *Local Government* may direct. If the district collector makes any remarks on the report, such remarks shall be forwarded to the council and the council shall be entitled, within such time as the *Local Government* fix, to offer or make such explanations or observations as the council thinks fit.

(2) The chairman shall prepare the report; the municipal council shall consider his report and forward it to the *Local Government* with its resolutions thereon, if any.

(3) The report *and the resolutions thereon, if any*, shall be published in such manner as the council, subject to the approval of the *Local Government*, may direct.

Controlling Authorities.

Power of Local Government and collector for purposes of control.

34. (1) The district collector may enter on and inspect, or cause to be entered on and inspected, any immovable property or any work in progress under the control of any municipal authority in his district.

(2) The *Local Government* or the district collector may—

(*a*) call for any document in the possession or under the control of any council or chairman;

(*b*) require any council or chairman to furnish any return, plan, estimate, statement, account, or statistics;

(*c*) require any council or chairman to furnish any information or report on any municipal matter;

(*d*) record in writing, for the consideration of the council or chairman any observations *they or* he may think proper in regard to its *or his* proceedings or duties.

Case Law:—**Sec. 34**:—The District Collector acting under the rules framed by the Government under this Act is not a "Court" within the meaning of this section. 22 I.C. 426=10 Cr. L.J. 9.

Collector's power to enforce execution of resolutions.

35. If it appears to the district collector, that the chairman of a municipality has made default in carrying out any resolution of the council, the said collector, after giving the chairman a reasonable opportunity of explanation, shall send a report thereon together with the explanation, if any, of the chairman to the *Local Government* and at the same time forward a copy of the same to the council.

Power to suspend or cancel resolutions, etc., under Act.

36. *(1) The Local Government may, by order in writing—*

(i) *suspend or cancel any resolution passed, order issued, or licence or permission granted or*

(ii) *prohibit the doing of any act which is about to be done or is being done*

in pursuance or under colour of this Act, if in their opinion,

(a) *such resolution, order, licence, permission or act has not been legally passed, issued, granted or authorized or*

(b) *such resolution, order, license, permission or act is in excess of the powers conferred by this Act or any other law or*

(c) *the execution of such resolution or order, the continuance in force of such licence or permission or the doing of such act is likely to cause danger to human life, health or safety, or is likely to lead to a riot or an affray.*

Provided that the Local Government shall before taking action under this section on any of the grounds referred to in clauses (a) *and* (b) *give the authority or person concerned an opportunity for explanation.*

(2) *If, in the opinion of the district collector, immediate action is necessary on any of the grounds referred to in clause* (c) *of sub-section (1) he may suspend the resolution, order, licence, permission or act, as the case may be, and report to the Local Government who may thereupon either rescind the collector's order or after giving the authority or person concerned a reasonable opportunity of explanation, direct that it continue in force with or without modification permanently or for such period as they think fit.''*

NOTES:—**Sec. 36**:—A provision has been added to sub-section (1) requiring the Local Government to give an opportunity to the authority or person for explanation before taking action.

Emergency powers of collector.

37. (1) The district collector may, in cases of emergency, direct or provide for the execution of any work, or the doing of any act which the council or chairman is empowered to execute or to do, and the immediate execution or the doing of which is, in his opinion, necessary for the safety of the public, and may direct that the expense of executing such work or doing such act incurred as the emergency may require shall be paid from the municipal fund.

(2) If the expense is not so paid, such collector may make an order directing the person having the custody of the municipal fund to pay it in priority to any other charge against the fund.

(3) Such person shall, so far as the funds to the credit of the municipal council admit, be bound to comply with such order.

(4) Every case in which the powers conferred by this section are exercised shall be forthwith reported to the *Local Government* by the district collector with the reasons in full for the exercise of such

powers; and a copy of the letter shall at the same time be sent to the municipal council for information.

Local Government's power to appoint officers to supervise municipalities.

38. (1) The *Local Government* may appoint such officers as may be required for the purpose of inspecting or superintending the operations of all or any of the municipal councils established under this Act.

(2) All schools, hospitals, dispensaries, vaccine stations, choultries and other institutions maintained by any municipal council, and all documents relating thereto shall at all times be open to the inspection of such officers as the *Local Government* may appoint in that behalf.

(3) Municipal authorities and municipal officers and servants shall be bound to afford to inspecting or superintending officers of Government appointed under this section such access at all reasonable times to municipal property or premises, and to all documents which, subject to any rules framed for their guidance under section 303 (1) and (2) (*k*) they may consider to be necessary to enable them to discharge their duties of inspection or superintendence.

Local Government's power to undertake works for, or to take action in default of, a municipality.

39. (1) If at any time it appears to the *Local Government* that a municipal council or chairman has made default in performing any duty imposed by or under this or any other Act, *they* may, by order in writing, fix a period for the performance of such duty.

(2) If such duty is not performed within the period so fixed, the *Local Government* may appoint some person to perform it, and may direct that the expense of performing it shall be paid, within such time as they may fix, to such person by the municipal council.

(3) The *Local Government* may, with the consent of the municipal council, undertake on its behalf the construction of water-supply, drainage or other works, appoint persons to carry out the construction of such works, and direct that the expense, including the pay of such persons be paid from the municipal fund.

(4) If expenses which the *Local Government have* directed under sub-section (2) or (3) to be paid from the municipal fund are not so paid, the district collector, with the previous sanction of the *Local Government*, may make an order directing the person having the custody of the municipal fund to pay it in priority to any other charge against such fund except charges for the service of authorized loans.

(5) Such person shall, so far as the funds to the credit of the municipal council admit, be bound to comply with such order.

Power of Local Government to remove chairman or vice-chairman.

40. (1) *The Local Government may, by notification, remove any chairman or vice-chairman who in their opinion wilfully omits or refuses to carry out or disobeys the provisions of this Act or any rules, bylaws, regulations or lawful orders issued thereunder or abuse the powers vested in him.*

(2) *The Local Government shall, when they propose to take action under sub-section (1), give the chairman or vice-chairman concerned an opportunity for explanation and the notification issued under the said sub-section shall contain a statement of the reasons of the Local Government for the action taken.*

NOTES :—**Sec. 40** :—The Local Government may, by notification, remove not only the Chairman but also the Vice-Chairman. Act V of 1920 authorises the Local Government to remove only Chairman. Under this amended section the Local Government could remove Chairman or Vice-Chairman for omitting or refusing to carry out or disobeying the provisions of this Act etc., whereas under Act V of 1920, the Local Government could remove the Chairman only, for omitting or refusing to carry out any resolution of the Council.

Motion of no confidence in chairman or vice-chairman.

40-A. (1) *A motion expressing want of confidence in the chairman or in the vice-chairman may be made by any councillor subject to the following restrictions, namely :—*

(a) *Leave of the council to make the motion shall be asked for before the business entered in the agenda for the day is taken up.*

(b) *The councillor asking for leave shall at the time of asking for leave hand to the person presiding a written notice of the motion which he proposes to make.*

(2) *The person presiding shall then read the motion to the council and request those councillors who are in favour of the leave being granted to rise in their places. If less than one-third of the sanctioned strength of the council rise accordingly, the person presiding shall inform the councillor that he has not the leave of the council. If not less than one-third of the sanctioned strength of the council rise, the person presiding shall intimate that leave is granted and that the motion will be taken on such day and time as he may appoint. The day appointed shall not be less than six clear days nor more than fifteen clear days from the day on which leave is asked.*

(3) *No debate on any motion under this section shall be adjourned. Such debate, if not earlier concluded, shall automatically terminate on the expiry of three hours from the time appointed for its commencement. Upon the conclusion of the debate or upon the expiry of the said period of three hours, as the case may be, the motion shall be put to the vote of the council.*

(4) (a) *If the motion is carried with the support of not less than two-thirds of the sanctioned strength of the council, the chairman or vice-chairman, as the case may be, shall forthwith be deemed to have vacated his office.*

(*b*) *If the motion is carried but not by such a majority as aforesaid and if after an interval of not less than one month, another motion expressing want of confidence in the same chairman or vice-chairman made under sub-section* (*1*) *is carried by the council, he shall forthwith be deemed to have vacated his office.*

Local Government's power to dissolve or supersede council.

41. (1) If in *their* opinion a council is not competent to perform or persistently makes default in performing the duties imposed on it by law, or exceeds or abuses its powers, the *Local Governmnet* may by notification direct that the council be dissolved and reconstituted *on such dates as the Local Government may fix in that behalf*; or *they* may, if *they* think necessary, supersede the council for a specified period not exceeding two years and the notification shall be laid on the table of the Legislative Council :

Provided as follows :—

(*a*) *for the purpose of completing the elections to a council which has been dissolved, the Local Government may, in their discretion, from time to time, extend the time fixed by them under this sub-section for its reconstitution and ;*

(*b*) The *Local Government* shall not supersede a portion only of the municipal council.

(*1-A*) *Before publishing a notification under sub-section* (*1*), *the Local Government shall communicate to the council concerned the grounds on which they propose to do so, fix a reasonable period for the council to show cause against the proposal and consider its explanations and objections, if any :*

Provided that where a council has disobeyed an order issued under section 36, the Local Government shall not be bound to follow the procedure laid down in this sub-section.

(*2*) *On the date fixed for the dissolution of the* council *under sub-section* (*1*), all its members, *as well as its chairman and vice-chairman,* shall *forthwith be deemed to have vacated* their offices and fresh *elections shall be held* in accordance with the *provisions of this Act. The newly elected councillors shall enter upon their offices on the date fixed for the reconstitution of the council.*

(3) Supersession shall take effect from noon on the date of publication of the notification, if no date is therein specified, and thereupon the following consequences shall ensue :

(*a*) All the members of the council as well as *its* chairman and vice-chairman shall forthwith *be deemed to have vacated* their offices.

(*b*) All or any of the powers and duties of the municipal authorities may, during the period of supersession, be exercised and performed, as far as may be, and to such extent as the *Local Government* may determine, by such persons as the *Local Government* appoint in that behalf and any such person who is not a district collector or revenue divisional officer may, if the *Local Government* so direct, receive payment for his

services from the municipal fund; the *Local Government* may determine the relations of such person with the municipal secretary (if any), with the district controlling officers and with *themselves;* and where there is a paid chairman the *Local Government* may direct him to exercise and perform any powers and duties of the council in addition to his own.

(*c*) [*Omitted.*]

(4) On or before the expiry of the period of supersession notified under sub-section (1), the *Local Government* may, by notification, for reasons to be stated in the notification, postpone the reconstitution of the council for a further period not exceeding six months, or notwithstanding anything contained in proviso (*a*) to *sub-section* (*1*) *of section 5*, withdraw the area of the municipality from the operation of this Act under that section.

(5) The *Local Government* may reconstitute the council before the expiry of the period notified under sub-section (*1*) *or sub-section* (*4*).

(6) When a council is dissolved or superseded under this section, the Local Government until the date of the reconstitution thereof and the reconstituted council thereafter shall be entitled to all the assets and be subject to all the liabilities as on the date of the dissolution or supersession and on the date of the reconstitution respectively.

Case Law Sec. 41 :—Supersession of a municipal council is nothing more than the dismissal of incompetent councillors followed only by the appointment of a *custos* for the discharge of the functions of the council pending nomination or election of other persons who would resume work in normal way. "In a word supersession is but a suspension of the council". The re-constituted council is a revived corporation. A suit therefore lies against the revived corporation for acts done by the superseded council. 29 M. 539=16 M.L.J. 582=1 M.L.T. 333.

Powers of officers acting for, or in default of, municipal council and liability of municipal fund.

42. When the district collector or person appointed by the *Local Government* lawfully takes action on behalf or in default of the municipal council under this Act he shall have *all such powers* as are necessary for the purpose, and shall be entitled to the same protection under this Act as the municipal authority whose powers he is exercising, and compensation shall be recoverable from the municipal fund by any person suffering damage from the exercise of such powers to the same extent as if the action had been taken by such municipal authority.

CHAPTER IV—ELECTION AND APPOINTMENT OF COUNCILLORS.

Elections.

Election of municipal councillors.

43. (1) *For the purposes of election of councillors to a municipal council, the Local Government after consulting the municipal council may, by notification—*

(*a*) *divide the municipality into wards,*

(*b*) *determine the wards in which the seats, if any, reserved under sub-section* (*3*) *of section 7 shall be set apart; and*

(c) *declare for whom such seats are reserved.*

(2) *The wards referred to in clause (b) of sub-section (1) shall return, in addition to members for such reserved seats, one or more members for non-reserved seats. The number of such members shall be notified by the Local Government. All other wards shall be entitled to elect only one councillor.*

(3) *All the electors of a ward, irrespective of their community or sex, shall be entitled to vote at an election to any seat in that ward whether reserved or not.*

(4) *When issuing under sub-section (1) a notification which materially alters the existing division of a municipality into wards, the Local Government may direct that the alteration shall take effect from the date of the next ordinary elections.*

(5) *When the number of councillors to be returned by a ward is altered or when a new ward is formed or when an existing ward is abolished, the election authority shall, with the approval of the Local Government, determine—*

(a) *the ward which each councillor then on the council shall be deemed to represent ; and*

(b) *the ward or wards in which elections shall be held to fill up the vacancies, if any, in the council,*

NOTES :—**Sec. 43** :—In Wharton's Law Lexicon P. 312 election has been defined as "the act of selecting one or more from a greater number for an office." In Stroud's Judicial Dictionary Vol. II, p. 609, it is stated as follows : "In Local Government Act of 1894, election includes both the nomination and the poll. Sec. 75."

Case Law : Sec. 43 :—In this Act, the word "election" should be taken to include both the nomination and the poll. 52 M. 732=57 M.L.J. 241.

Publication of electoral roll.

44. (1) *An electoral roll for every municipality showing the names of persons qualified to vote therein shall be prepared and published by the election authority in the manner prescribed before the end of June of the year in which the ordinary vacancies are to occur.*

(2) *The roll so prepared and published shall be revised and a list of amendments and corrections thereto shall in like manner be prepared and published by the election authority before the end of June of every year and*

(3) When a municipality has been divided into wards the electoral roll shall be divided into separate lists for each ward.

(4) The electoral roll published in any year shall remain *as revised by the list of amendments and corrections, if any,* in force till the publication of a fresh electoral roll.

(5) Every person whose name appears in the electoral roll *as so revised* shall so long as it remains in force be entitled to vote at an election ; and no person whose name does not appear in such roll shall vote at an election.

NOTES :—**Sec. 44** :—The power of preparing electoral rolls which was vested in the Chairman under Act V of 1920 is now vested in the election authorities.

Case Law : Sec. 44 (1) :—Section 44 (1) enjoins that the chairman shall annually prepare and publish an electoral roll. Both preparation and revision are included in the term "prepare". 47 M.L.J. 795=20 L.W. 851=85 I.C. 322=A.I.R. 1925 M. 160.

Qualifications for voting.

45. (*1*) *No person shall be included in the electoral roll as qualified to vote unless—*

(*a*) *he is a British subject or a subject of a State in India :*

Provided that the Local Government may exclude from the scope of this restriction any alien or class of aliens;

(*b*) *he has attained the age of twenty-one years in the year preceding that in which the electoral roll is published ;*

(*c*) *he has been assessed in such preceding year to any tax payable to the Government of India or to the Local Government or to any local authority in the Presidency of Madras or is a retired, pensioned or discharged officer, non-commissioned officer or soldier of His Majesty's regular forces ; and*

(*d*) *he has resided in the municipality for one hundred and twenty days in the aggregate in such preceding year.*

(*2*) *If a company or association or the members of a family jointly or joint pattadars has or have been assessed to any tax, the company or association or the family or joint pattadars shall be treated as possessing the qualification, and the person entitled to be registered in the electoral roll shall be the secretary of the company or association or some other person duly authorized in that behalf or the member authorized by a majority of the family or of the joint pattadars, or, in the case of a joint Hindu family, either a member so authorized or in defuult of such authorization, the manager thereof.*

(*3*) *A person may be qualified either in his personal capacity or in the capacity of a representative of a company or association or of a joint family or of joint pattadars, but not in both capacities.*

(*4*) *Save as provided in sub-section* (*2*), *no person shall be qualified as an elector unless he possesses the necessary qualifications in his personal capacity.*

NOTES : **Sec. 45** (**1**) (**c**) :—This section as amended enacts that a person to have his name included in the electoral roll as qualified to vote should be assessed to a tax payable to the Government of India, the Local Government or any local authority or be a retired, pensioned or discharged officer etc., whereas Act V of 1920 Cl. (c) only says that he should have paid the taxes due by him under the Act.

Sec. 45:—Section 46 of Act V of 1920 has been omitted and in its place sub-sections 1 (d) 2, 3, and 4 have been added.

Sub-section (2) makes it clear in the case of companies, associations, joint families and joint pattadars who the person is who is to exercise the franchise.

46. [*Omitted*]

Disqualifications of voters.

47. *Notwithstanding anything contained in sub-section* (*5*) *of section 44, a person who is of unsound mind, a deaf-mute or a leper shall not be entitled to vote at any election to a municipal council.*

Qualifictaions for membership of Council.

Qualification of candidates.

48. (1) No person shall be qualified for election as a councillor unless the name of such person appears on the electoral roll of the municipality.

(2) No officer of Government other than a village officer shall be qualified for election or for holding office as a councillor :

Provided that this prohibition shall not apply to the holder of any office which does not involve both of the following incidents, namely, that the incumbent—

(*a*) *is a whole-time servant of the Government ; and*

(*b*) *is remunerated either by salary or fees :*

Provided further that if any question arises either before or after an election whether any person is or is not disqualified under this sub-section the question shall be referred to the Local Government whose decision shall be final.

NOTES :—**Sec. 48** :—The Select Committee says :—

"To secure freedom of choice to the electors, Public Prosecutors, Government Pleaders, Honorary Magistrates and village officers have been disqualified for election as municipal councillors."

The Act does not specifically say that these people are not qualified for election. It only refers to "whole time servants of the Government" and "remunerated either by salary or fees." It would have been better if the legislature had made the position clear as to whether the abovementioned persons are whole-time servants of the Government or not.

Case Law : Sec. 48 :—Validity and conclusiveness of the register cannot be questioned in an election petition. 47 M.L.J. 795 = A.I.R. 1925 M. 160 = 20 L.W. 851 = 85 I.C. 322.

Disqualification of candidates.

49. (1) A person who has been sentenced by a criminal court to transportation or to imprisonment for a period of more than six months for any offence other than an offence of a political character or an offence not involving moral delinquency (such sentence not having been reversed or the offence pardoned) shall be disqualified for election as a councillor while undergoing the sentence and for five years from the date of the expiration of the sentence.

(2) A person shall be disqualified for election as a councillor if such person is at the date of nomination, or election

(*a*) of unsound mind, a deaf-mute or a leper ;

(*b*) *an applicant to be adjudicated a bankrupt or insolvent* or an uncertificated bankrupt or undischarged insolvent ;

(*c*) interested in a subsisting contract made with, or any work being done for, the municipal council except as a shareholder (other than a director) in a *company* ;

Provided that a person shall not be deemed to have any interest in such contract or work by reason only of his having a share or interest in—

(i) any lease, sale or purchase of immovable property or any agreement for the same ; or

(ii) any agreement for the loan of money or any security for the payment of money only ; or

(iii) any newspaper in which any advertisement relating to the affairs of the council is inserted ; or

(iv) the sale to the council of any articles in which he regularly trades, or the purchase from the council of any articles to a value in either case not exceeding fifteen hundred rupees in the aggregate in any year during the period of the contract or work ;

(*cc*) *employed as paid legal practitioner on behalf of the council or as legal practitioner against the council* ;

(*d*) an officer or servant holding office under this Act ; *or an honorary Magistrate for the municipal town* ;

(*e*) already a councillor whose term of office as such will not expire before his fresh election can take effect : *or has already been elected a councillor whose term of office has not yet commenced* ; or

(*f*) *the servant or employer or the official subordinate or official superior of a councillor holding office on the said date.*

(3) Notwithstanding anything contained in sub-section (1), the *Local Government* may direct that such sentence shall not operate as a disqualification.

(4) [*Omitted.*]

NOTES :—**Sec. 49** :- Note the distinction between Sec. 49 (2) (f) and section 50 (1) (f). Under this section the servant or employer or the official subordinate or official superior is disqualified for election whereas under Sec. 50 (1) (f) only the person accepting employment under or becoming the official subordinate of a councillor ceases to hold office as a councillor.

The principle of this clause seems to be that no person connected in any of the capacities mentioned in the clause with a sitting councillor should be allowed to contest an election lest these two should act together in all matters as the one or the other dictates. The same would be the principle underlying clause (f) of sub-section (1) of sec. 50. Both the employer and the employed or the official superior and the official sub-ordinate should not sit together in the same council. It stands to reason that the person accepting employment under another or becoming the official subordinate of another should go out in preference to the employer or official superior.

Case Law : Sec. 49 :—The vice-chairman of a municipality is not an " officer " of the municipality within the meaning of sec. 49 and he may himself be a candidate for a ward while he is vice-chairman and it is not necessary for the chairman or vice-chairman to resign their posts before they can stand for election as councillors. 48 M.L.J. 696 = A.I.R. 1925 M. 877 = 22 L.W. 429.

Sec. 49 (2):—The hereditary archaka of a Hindu temple is not a servant of the trustee of the temple within the meaning of clause (2) (f) of Sec. 49. A trustee is not the employer of the herditary archaka. The word "servant" as used in section 49 means not a subordinate but one who gives his service to his master and the word "employer" is used in the sense of a person employing anyone for his benefit or on his own account. The word "servant" cannot apply to a person who is under the authority of another, nor the word "employer" to a person who is only asked to supervise the work of another. The trustee is as much the servant of the diety as the hereditary archaka. 110 I.C. 765=55 M.L.J. 632=A.I.R. 1928 M. 641=29 L.W. 285.

See the following cases also:—35 Mad. 631; (1927) A.C. 686; (1911) 2 K.B. 9; 16 L.W. 931; (1795) 101 E R. 622; (1811) 14 East 605: 104 E.R. 734.

Sec. 49 (2):—There is a clear distinction between the provisions of the Act and the rules framed by the Government under the Act. The Government, by constituting itself the final tribunal in interpreting the rules made by it cannot, though the rules form part of the Act, reserve to itself the exclusive right to interpret the specific provisions of the Act thus ousting the jurisdiction of the civil courts. The finality of the Government decision under R. 31 (1) attaches only to the interpretation of the Rules and not to the construction of the statute: (47 M. 585 DISTINGUISHED.) 53 M.L.J. 735=A.I.R. 1927 M. 971=26 L.W 460.

Disqualification of councillors.

50. (1) Subject to the provisions of section 51, a councillor shall cease to hold his office, if he—

(*a*) is sentenced by a *criminal* court to such punishment *and for such offence* as is described in sub-section (1) of section 49;

(*b*) becomes of unsound mind, a deaf-mute, or a leper;

(*c*) applies to be adjudicated or is adjudicated, a bankrupt or insolvent;

(*d*) subject to the proviso to *clause* (*c*) *of sub-section* (2) *of* section 49, acquires any interest in any subsisting contract made with, or work being done, for the council except as a shareholder (other than a director) in a *company*;

(*dd*) *is employed as paid legal practitioner on behalf of the council or accepts employment as legal practitioner against the council*;

(*e*) is appointed *as an officer or servant under this Act or*] *as an honorary magistrate for the municipal town*;

(*f*) accepts employment under (*or becomes the official subordinate of*) any other councillor;

(*g*) [*Omitted.*]

(*h*) ceases to reside in the municipality or within two miles thereof; or

(*i*) *absents himself from the ordinary meetings of the council for three consecutive months commencing from the date on which he last attended such a meeting or, if, within that period less than three such meetings have been held, from three such consecutive meetings of the council held after the last ordinary meeting he attended*:

Provided that no ordinary meeting from which a councillor absents himself shall be counted against him under this clause, if due notice of that meeting has not been given to him.

Explanation.—In this clause, the expression 'ordinary meeting' shall not include a meeting held under sub-rule (2) of rule 2 or under rule (3) of schedule III.

(2) Notwithstanding anything contained in clause (*a*) of sub-section (1) the *Local Government* may direct that such sentence shall not operate as a disqualification.

(3) Where a person ceases to be a councillor under clause (*a*) *of sub-section (1) or under section* 60 he shall be restored to office for such portion of the period for which he was elected as may remain unexpired at the date of such restoration, if and when the sentence is annulled on appeal or revision or the disqualification caused by the sentence is removed by an order of the *Local Government. And any person elected to fill the vacancy in the interim shall on such restoration vacate office.*

(*4*) *Where a person ceases to be a councillor under clause* (i) *of sub-section (1), the chairman shall at once intimate the fact in writing to such person and report the same to the council at its next meeting. If such person applies for restoration* suo motu *to the council on or before the date of its next meeting or within fifteen days of the receipt by him of such intimation, the council may at the meeting next after the receipt of such application restore him to his office of councillor:*

Provided that a councillor shall not be so restored more than twice during his term of office.

NOTES:—**Sec. 50 (4)**:—Under Act V of 1920, it is enough if the chairman reports the matter to the council. No notice need be given to the person who ceases to be a councillor. Under the amended section it is obligatory on the chairman not only to report the fact to the council but also intimate the fact in writing to the person concerned.

Decision on questions of disqualification of councillors by district judge.

51. (1) Whenever it is alleged that any person who has been elected as a councillor is disqualified under *sub-section (1) of section 48*, section 49, section 50 or *section 60* and such person does not admit the allegation, or whenever any councillor is himself in doubt whether or not he has become disqualified for office *under section 50 or section 60* such councillor or any other councillor may, and the chairman, at the request of the council, shall, apply to the district judge of the district in which the municipality is situated.

(2) The said judge, after making such inquiry as he deems necessary, shall determine whether or not such person is disqualified under *sub-section (1) of section 48*, section 49, section 50 *or section 60* and his decision shall be final.

(3) *Pending such decision, the councillor shall be entitled to act as if he were not disqualified.*

Case Law :—Sec. 51:—" The wording of sec. 51 is unhappy. It is not said who are the persons who may allege that the elected councillor is disqualified or in what form or manner the allegation is to be made, or how or when the person challenged is called on to admit or not to admit the allegation. Again, the present tense "is disqualified" in sub-section (1) cannot be aptly used of section 49 since it refers to the present state of the councillor who has been elected, whereas sec. 49 refers to his prior state on the date of the nomination, election or appointment. The same remark applies to the use of the same term in sub-section (2). It is also not clear what differentiation, if any, is intended between "is disqualified" in reference to an allegation by outsiders and "has become disqualified "in reference to the doubts of the councillor. Are the doubts of a councillor remediable in law only when they relate to the period of nomination or actual election." (*Wallace, J*).

A disqualification under section 49 or section 50 of an elected candidate could be made a ground for a petition impugning under rule 1 and rule 2 (c) of the rules for the decision of disputes as to the validity of an election held under the D.M. Act of 1920.

Sec. 51 of the Act only applies where there has been an election of the candidate as a councillor which is apparently valid on the face of it and does not apply to the inchoate stage of nomination which has not resulted in at least something which purports to be an election.

The remedy provided by sec. 51 could be availed of only by a councillor : it is not open under that section to any voter or candidate to take action or move the district judge. 52 M. 732=57 M.L.J. 241=A.I.R. 1929 M. 727 (F.B,)

Election offences

52. [*Omitted.*]

53. [*Omitted.*]

54. [*Omitted.*]

55. [*Omitted.*]

Infringement of secrecy of election.

56. Every polling officer, clerk or other person in attendance at the polling room who, except for some purpose authorized by law, communicates to any person any information showing directly or indirectly for which candidate any voter has voted, and every person who by any improper means procures any such information, shall be punished with imprisonment of either description which may extend to six months or with fine or with both.

Case Law : Sec. 56 :—The chairman of a municipality is not a municipal officer within the meaning of section 52 of the Act and therefore cannot be prosecuted for offences under sections 56 and 57 of the Act as these sections relate to offences by polling officers, clerks or other persons in attendance at the polling room and the municipal chairman is not such a person. (48 M.L.J. 696 FOLLOWED.)

No previous sanction of the local government under section 197 (1) of the Code of Criminal Procedure is required before instituting a complaint against the chairman of a municipality under section 54 (a) and (b) of the District Municipalities Act, where the acts alleged against him cannot be said to have been committed by him when acting in the discharge of his official duty. (50 M. 754=52 M.L.J, 647 REFERRED TO) 57 M.L.J. 331=A.I.R. 1928 M. 1158.

57. [*Omitted.*]

58. [*Omitted.*]

59. [*Omitted.*]

Disqualifications of persons convicted of election offences.

60. *Every person convicted of an offence punishable under section 56 or under Chapter IX-A of the Indian Penal Code shall be disqualified from voting or from being elected in any election to which this Act applies or from holding the office of municipal councillor for a period of five years from the date of his conviction, or for such shorter period as the court may by order determine.*

NOTES: **Sec. 60** :—This section enacts disqualification of persons convicted of election offences. Under this section it is the court convicting the person that is to determine for what shorter period the disqualification is to last. Under sections 49 and 50, it is the Local Government that directs whether the disqualification shall cease earlier.

CHAPTER V.—POWERS OF MUNICIPAL AUTHORITIES IN RESPECT OF PROPERTY, CONTRACTS, ESTABLISHMENT.

Property.

Vesting of public streets and appurtenances in the municipal council.

61. (1) All public streets in any municipality, with the pavements, stones and other materials thereof, and all *works*, materials and other things provided for such streets, all sewers, drains, drainage works, tunnels and culverts, whether made at the cost of the municipal fund or otherwise, in, alongside or under any street, whether public or private, and all works, materials and things appertaining thereto shall vest in the municipal council.

(2) The *Local Government* may by notification withdraw any such street, sewer, drain, drainage work, tunnel or culvert from the control of the council.

Case Law : **Sec. 61** :—Drains attached to the street vest in the municipality even though the sites of the drains may belong to the owners of the shops abutting the street. To show adverse possession the owner must prove that the municipality was prevented from using the drains. 39 M.L.J. 222=55 I.C. 493.

Collected sewages, etc., to belong to municipal council.

62. All rubbish and filth and other matter collected by a municipal council under this Act shall belong to the council.

Power of Board of Revenue to transfer control of endowments to municipal council.

63. Subject to the control of the *Local Government* the Board of Revenue may, by notification *with the consent of a municipal council*, *make over to the council* the management and superintendence of any charitable endowment in respect of which powers and duties attach to the Board of Revenue under the provisions of the Madras Endowments and Escheats Regulation, 1817; and thereupon all powers and duties which attach to the Board of

Revenue in respect thereof shall attach to *the council* as if it had been specially named in the said regulation, and the council shall manage *and superintend* such endowment.

Inventory of municipal property.

64. (1) The chairman shall maintain an inventory of all immovable property owned by the municipal council or to which the council has a reversionary right.

(2) A copy of the said inventory shall be deposited in the office of the revenue divisional officer of the division in which the municipality lies, or, where there is no division, in the office of the district collector, and all changes shall be forthwith communicated to the said officer or collector.

Limitation of power to accept property in trust.

65. The council may accept trusts relating exclusively to the furtherance of *any purpose* to which the municipal fund may be applied.

Objects not provided for by this Act.

66. The *Local Government* may, *with the consent of a municipal council, transfer to the council* the management of any institution or the execution of any work not provided for by this Act, and it shall thereupon be *lawful for the council to undertake such management or execution* :

Provided that in every such case the funds required for such management or execution shall be placed at the disposal of the council by the *Local Government.*

Procedure for acquisition of immovable property under the Land Acquisition Act, 1894.

67. Any immovable property which any municipal authority is authorized by this Act to acquire may be acquired under the provisions of the Land Acquisition Act, 1894, and on payment of the compensation awarded under the said Act in respect of such property and of any other charges incurred in acquiring it the said property shall vest in the council.

Contracts.

Delegation of authority to contract and contractual powers of persons appointed by Government.

68. (1) The council may delegate to the chairman or a committee consisting of two or more members the power of making on its behalf any contract whereof the value or amount does not exceed *one thousand rupees.*

(2) In respect of a contract whereof the value or amount exceeds *one thousand rupees*, the sanction of the council for the making thereof should be obtained before the same is made.

(3) Notwithstanding anything in the two preceding sub-sections, any person appointed by the *Local Government* to carry any work into

execution on behalf of a municipal council may, subject to such control as the *Local Government* may prescribe, make such contracts as are necessary for the purpose of carrying such work into execution, to the extent of the sum provided for such work; and the municipal council shall pay to the person so appointed such sums as may be required for the said purpose to the extent aforesaid.

Case Law: Sec. 68:—A contractor bought in auction the right to collect fees or tolls for slaughtering cattle. The suit is by the municipal council for the balance money due from him.

Held that, though no claim could be made on the basis of the written contract as required by Section 45 of the Act of 1884 which was in force, a decree could be given on the footing of the executed consideration, the contractor having enjoyed the right of collecting the toll for the whole year. [(1903) 1 K.B. 772; (1883) 8 A.C. 517; (1913) 2 Ch. 407 REFERRED TO], 45 M.L.J. 164=18 L.W. 130=72 I.C. 703.

An agreement relating to the right to collect tolls is one which should be effected in the manner prescribed by the section and if the provisions of the section have not been complied with, the agreement is invalid.

The fact that the agreement was partially acted upon cannot be held to render it an operative contract in spite of the provisions of the statute which have been violated. 30 M. 290.

Mode of executing contracts.

69. (1) Every contract made by, or on behalf of, a council, whereof the value or amount exceeds *one hundred rupees* shall be in writing and except in the case of contracts made under the provisions of sub-section (3) of section 68 shall be signed by two municipal councillors.

(2) A contract executed or made otherwise than in conformity with the provisions of this and the last preceding sections shall not be binding on the municipal council.

Case Law: Sec. 69 (1):—Section 69 (1) of the District Municipalities Act of 1920 lays down that every contract made by or on behalf of a council shall be in writing and shall be signed by two municipal councillors. Where the provisions of the statute have not been complied with a contract made by a municipal council is null and void and the suit by the municipal council based on such a contract is unsustainable. (30 M. 290 and 54 Cal. 189 RELIED ON; 45 M.L.J. 164 NOT FOLLOWED; 28 Bom. 66 DISTINGUISHED.)

Where a party after his bid has been accepted represents to the municipality that he bid on behalf of himself and another person and asks that such other person should be regarded as a co-contractor and the second party joins in that representation and pays money on which the chairman officially "accepts the money tendered by both", the second party is clearly estopped by his action from disputing his liability under the contract on the ground that he was not a party to the original bid. The difference in the wording between Section 174 (5) of the Public Health Act and Section 69 (2) pointed out. The former runs thus:—"Every contract entered into by an urban authority in conformity with the provisions of this section and duly executed by the other parties thereto, shall be binding on the authority by whom the same is executed ...." 58 M.L.J. 377, =A.I.R. 1930 M. 600.

Section 69 of the District Municipalities Act puts the matter negatively. See also the following cases; (1903) 1 K.B. 772; (1913) 2 Ch. 407; and (1883) 8 A.C. 517.

Establishment.

Officers and servants of municipal council.

70. (*1*) *The sanction of the council shall be obtained for all proposals for fixing or altering the number, designations and grades of its officers and servants and the salaries, fees and allowances payable to them.*

(*2*) *Such proposals shall be taken into consideration by the council only at the instance of the chairman, and the council may sanction them with or without modifications :*

Provided that no proposal adversely affecting any municipal officer or servant who has been in the permanent service of the municipality for more than five years and is drawing a salary of not less than fifty rupees per mensem, shall be considered except at a special meeting convened for the purpose and no such proposal shall be given effect to, unless assented to by at least one-half of the members then on the council.

Case Law: Sec. 70:—Local boards and corporations are what may be called quasi-governing bodies but by the very scheme of the Acts under which they are created they are not servants of the Government. Their representatives in some cases are nominated but generally elected by the people and they have their official capacity as such and not as officials of Government. It is true that they are under Government in the sense that under the statute they have to account to the Government, and are under desciplinary powers of Government. The Government has a duty cast upon it to see that these ministerial bodies carry out their functions lawfully. But none of the officials of these municipalities and district boards are officers of the Government coming within Articles 1 and 3 of the Second Schedule to the Provincial Small Cause Courts Act. 45 M.L.J. 125.

The secretary, the health officer and the engineer.

71. (*1*) *If, in any municipality, there is no salary attached to the office of chairman, a post of secretary may be sanctioned by the council.*

(2) Any municipal council, by special resolution may, and every council which during three consecutive years has realized an income of one hundred thousand rupees from ordinary receipts, shall, if so required by the Local Government, sanction a post of health officer and a post of municipal engineer.

(3) The salaries of these officers shall be fixed by the municipal council subject to the approval of the Local Government.

(4) Every secretary, health officer or engineer shall devote his whole time to the duties of his office and shall not engage in any other profession, trade or business.

Filling up of the appointments of health officer or engineer.

72. (1) On the occurrence of a vacancy in, or after the creation of, an office of health officer or engineer an appointment shall be made thereto by the council subject to the approval of the *Local Government* within four months from the date on which the vacancy occurred or the office was created or, in the event of any appointment so made by the council not being confirmed by the *Local Government*

within thirty days of the date of the receipt by the council of the orders of the *Local Government*

(2) In default of an appointment being made by the council as aforesaid, the *Local Government* may appoint a person to hold the office, and such appointment shall, for all purposes, be deemed to have been made by the municipal council.

(3) Pending the settlement of an appointment under sub-section (1) or (2) the municipal council may appoint a person to hold the office temporarily and may direct that the person so appointed shall receive such salary not exceeding the sanctioned salary of the post as it shall think fit.

(4) *No such officer shall be removed from office except with the consent of the Local Government. Such consent shall be given if the removal is recommended by a resolution of the council passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the sanctioned strength of the council.*

Filling up of appointments other than those of the health officer and the municipal engineer.

73. *Excepting the health officer and the municipal engineer, all officers and servants of a municipal council shall be appointed by the chairman in accordance with any rules which the Local Government may have made in this behalf :*

Provided that in case of emergency—

(*a*) *the chairman may appoint temporarily such officers and servants as may in his opinion be required for the purposes of this Act and the employment of whom for any particular work has not been prohibited by any resolution of the municipal council ; and*

(*b*) *every appointment made under clause* (*a*) *shall be reported by the chairman to the council at its next meeting.*

Power of council to frame service regulations.

74. Subject to the *provisions of this Act and any rules which the Local Government may make in this behalf*, the council may frame regulations in respect of officers and servants on the municipal staff—

(*a*) fixing the amount and nature of the security to be furnished ;

(*b*) prescribing educational or other qualifications ;

(*c*) regulating the grant of leave, leave allowances, *acting allowances and travelling allowances* ;

(*d*) regulating the grant of pensions and gratuities ;

(*e*) establishing and maintaining provident funds and making contribution thereto compulsory ;

(*f*) regulating conduct ; and

(*g*) generally prescribing conditions of service ;

Provided—

(i) that the amount of any leave, *leave allowances, travelling allownces, pension or gratuity provided for in such regulations* shall in no case without the special sanction of the *Local Government* exceed what would be admissible in the case of Government servants of similar standing and status; and

(ii) that the conditions under which such allowances are granted or any leave, superannuation or retirement is sanctioned shall not without similar sanction be more favourable than those for the time being prescribed for such Government servants.

Power to punish municipal officers or servants.

75. Subject to the provisions of section 77 and to such control as may be prescribed by the *Local Government* the chairman may *censure, fine, withhold promotion from*, reduce, suspend, remove or dismiss any municipal officer or servant *in its service,* except a health officer or municipal engineer for any breach of departmental rules or discipline, or for carelessness, unfitness, neglect of duty or other misconduct.

NOTES. **Sec. 75**:—Compare this section with Section 96 of the Madras City Municipality Act. Under Section 96 a municipal officer or servant could be punished by the authority empowered to appoint without any notice and any opportunity to explain. See 6 L.W. 284=42 I.C. 513.

Power to grant leave to establishment.

76. *The chairman may grant leave to all municipal officers and servants.*

Special provisions regarding Government servants lent to council.

77. (1) The *Local Government* may, on the application of any municipal council, place the services of any Government servant at the disposal of the council to be employed by it for the purposes of this Act. The council shall pay any Government servant so employed the salary he may be entitled to receive under the rules of the branch of Government service to which he belongs, and shall also pay the *Local Government* such contribution towards the pension and leave allowances of such servant as may be payable under the regulations in that behalf in force for the time being.

(2) If such servant, while employed by the municipal council or if any other servant of the council does any work for Government, the *Local Government* shall contribute to the municipal fund so much of the salary of such servant as the *Local Government* may consider to be an equivalent for such work.

(3) No Government servant employed by the municipal council under this section shall be dismissed from such employment without the consent of the *Local Government* or until three months' notice in writing to that effect shall have been given to the chief controlling

authority of the branch of the Government service to which such servant belongs.

(4) No Government servant employed by a municipal council shall, except in cases of emergency, be withdrawn from the service of the council without the consent of the municipal council, unless and until the *Local Government* shall have given three months' notice in writing to that effect to the municipal council or unless some other Government servant has been deputed to replace the one withdrawn.

(5) Government servants employed by municipal councils shall be entitled to leave and other privileges in accordance with the regulations applicable to the department of the general administration to which they belong.

Provincialisation of any class of municipal officers or servants.

77-A. (*1*) *Notwithstanding anything contained in this Act, the Local Government may, by notification, constitute any class of officers or servants of municipal councils into a municipal service for the Presidency of Madras:*

Provided that no notification shall be issued under this sub-section—

(*i*) *unless all the municipal councils constituted under this Act have been consulted in respect thereof, and*

(*ii*) *unless a majority of the councils so consulted have passed a resolution supporting such issue.*

(*2*) *Upon the issue of a notification under sub-section* (*1*), *the Local Government shall have power, subject to the provisions of section 305-A, to make rules to regulate the classification, methods of recruitment, conditions of service, pay and allowances, and discipline and conduct of the municipal service thereby constituted and such rules may vest jurisdiction in relation to such service in the Local Government or in such other authority or authorities as may be prescribed therein.*

PART III.

CHAPTER VI—TAXATION AND FINANCE.

Enumeration of ordinary taxes and power of control of Local Government.

78. (1) Every municipal council may levy

(*a*) a property tax;

(*b*) a profession tax;

(*c*) a tax on carriages and animals;

(*d*) a tax on carts;

(*e*) tolls on vehicles and animals entering the municipality;

(2) A hill station municipal council may also levy a tax on servants.

(3) Any resolution of a municipal council determining to levy a tax or toll shall specify the rate at which any such tax or toll shall be levied and the date from which it shall be levied:

Provided that before *passing* a resolution imposing a tax or toll for the first time or increasing the rate of an existing tax or toll, the council shall publish a notice *in the district gazette and at least one vernacular newspaper* of its intention, fix a reasonable period not being less than one month for submission of objections and consider the objections, if any, received within the period specified.

Provided also that any resolution abolishing an existing tax or toll or reducing the rate at which a tax or toll is levied shall be immediately reported to *the Local Government* and in municipalities which have an outstanding loan either from the Government or from the public or any other local body such abolition or reduction shall not be carried into effect without the sanction of the *Local Government.*

Provided also that where any resolution under this section has taken effect for a particular year, no proposals to alter the rates or date fixed in such resolution so far as that year is concerned shall, be taken in consideration by the council.

Special taxation.

79. With the previous sanction of the *Local Government* and the Governor-General in Council—

(*a*) a surcharge on income-tax payable under *any Act of the Indian Legislature for the time being in force* may be levied by any municipal council in lieu of the profession tax in respect of the first seven classes of the persons liable therefor as specified in Schedule IV : and

(*b*) a tax on persons *travelling by Railway from any station notified under section 116 in or near the municipality* may be levied by the council of any municipality which is resorted to by pilgrims :

Provided that no portion of the proceeds of any tax levied under clause (b) shall be expended for purposes other than making arrangements for the health and comfort of the pilgrims or the improvement or development of the municipal area.

Notification of new taxes and tolls.

80. When a municipal council shall have determined subject to the provisions of sections 78 and 79 to levy any tax or toll for the first time or at a new rate, the chairman shall forthwith publish a notification in the district gazette and by beat of drum specifying the rate at which *the date from which and the period of levy, if any, for which such tax or toll shall be levied.*

Case Law : Sec. 80 :—Under section 80 of the District Municipalities Act when a municipal council shall have determined under the provisions of sections 78 and 79 to levy any tax or toll for the first time or at a new rate the chairman shall forthwith publish a notification in the District Gazette and by beat of drum specifying the rate at which the tax or toll shall be levied from a date to be specified in the notification. A municipality published a notification to the following effect : "This (that is profession) tax will be levied at the maximum rates in Schedule 4 of the District Municipalities Act (V of 1920)"

Held that this notification did not comply with the requirements of section 80 as it ought to mention the rate at which the tax is to be levied. The reference to schedule 4 is not a sufficient compliance with the clear terms of S. 80. 50 M.L.J. 556=24 L.W. 85= A.I.R. 1926 Mad. 800.

The provisions of section 80 are mandatory and it is not enough if the provisions are substantially complied with. They should be strictly complied with. 49 M.L.J. 542=22 L.W. 619=A.I.R. 1926 Mad. 152.

The property tax.

Description and classes of property tax.

81. (1) *If the council by a resolution determines that a property tax shall be levied, such tax shall be levied on all buildings and lands within municipal limits save those exempted by or under this Act or any other law. The property tax may comprise—*

(*a*) *a tax for general purposes ;*

(*b*) *a water and drainage tax to provide for expenses connected with the construction, maintenance, repair, extension or improvement of water or drainage works heretofore provided or hereafter to be provided.*

(*c*) *a lighting tax to provide for expenses connected with the lighting of the municipality by gas or electricity ;*

(*d*) *a scavenging tax to provide for expenses connected with the removal of rubbish, filth or the carcasses of animals from private premises : and*

(*e*) *a railway tax to be used solely for or to further the construction and maintenance of railways :*

Provided that where the water and drainage tax is levied, the municipal council shall declare what proportion of the tax is levied in respect of water-works and the remainder shall be deemed to be levied in respect of drainage works and the proportion so declared shall also be specified in the notification published under section 80 :

Provided further that the railway tax shall not be levied unless its levy is determined by a resolution of the municipal council supported by not less than three-fourths of the members present at a meeting specially convened in that behalf, such resolution being confirmed after a period of six months by a like majority at a like meeting and sanctioned by the Local Government.

(2) *Save as otherwise provided in this Act, these taxes* shall be levied at such percentages of the annual value of *lands or buildings or both* as may be fixed by the municipal council, subject to the provisions of section 78.

(3) *The municipal council may, in the case of lands which are not used exclusively for agricultural purposes and are not occupied by, or adjacent and appurtenant to, buildings, levy these taxes at such percentages of the capital value of such lands or at such rates with reference to the extent of such lands, as it may fix :*

Provided that such percentages or rates shall not exceed the maximum, if any, fixed by the Local Government and that the capital value of such lands shall be determined in such manner as may be prescribed.

(4) (a) The municipal council may, in the case of lands used exclusively for agricultural purposes, levy these taxes at such proportions, as it may fix of the annual value of such lands as calculated in accordance with the provisions of section 79 of the Madras Local Boards Act, 1920.

(b) If such lands be occupied by tenants, the municipal council shall levy the taxes in equal shares, from the landholder and the tenant respectively :

NOTES : **Sec. 81** :—Provision for the levy of a "tax for general purposes and a scavenging tax" has been introduced by the amending Act. Sub-section (3) prescribes a new mode of valuing lands for the levy of taxes. Sub-section (4) enacts the mode of taxing agricultural lands. It also says that the tax shall be borne equally by the landholder and the tenant when the land is occupied by tenants.

Case Law : Sec. 81 :—The Municipal Council, Cuddappa, assessed the Madras and Southern Mahratta Railway Company to property tax in respect of certain vacant sites belonging to the Railway Company. This tax was sought to be imposed by virtue of Act V of 1920, the District Municipalities Act, whereby municipal councils are entitled to levy property tax under section 81. After the payment of the tax under protest the company filed a suit for a declaration that the assessment was illegal and for refund of the amount of the tax with interest. No notification was issued by the Government of India since Madras Act V of 1920 came into force and the municipal council can only rely upon a notification of 24th November 1911 which was issued under the previous Act. Under Section 135 of the Indian Railways Act (IX of 1890) it is laid down that a railway administration shall not be liable to pay any tax in aid of the funds of any local authority unless the Governor General-in-Council has by notification in the Official Gazette declared the railway administration to be liable to pay the tax. *Held* that the taxes in respect of which the notification was issued in 1911 were substantially different from the "property tax" mentioned in section 81 of Act V of 1920. Taxing enactments should be strictly construed and the right to tax should be clearly established. Conditions precedent to the imposition of any tax should be strictly complied with.

Compare section 63 of the Municipal Act, 1884.

Obiter :- Whether the notification of 24th November 1911 declaring the railway administration liable to pay "house, land and water taxes" without specific reference to the section of the District Municipalities Act which purports to impose such a tax is not *ultra vires* of the Government of India. 57 M.L.J. 471.

Method of assessment of property.

82. (1) Every building shall be assessed together with its site and other adjacent premises occupied as an appurtenance thereto unless the owner of the building is a different person from the owner of such site or premises.

(2) The annual value of lands and buildings shall be deemed to be the gross annual rent at which they may reasonably be expected to let from month to month or from year to year less a deduction, *in the case of buildings only*, of ten per centum of such annual rent and the said deduction shall be in lieu of all allowance for repairs or on any other account whatever ;

Provided that—

(*a*) *in the case of*

(*i*) *any Government or railway building or*

(*ii*) *any building of a class not ordinarily let, the gross annual rent of which cannot, in the opinion of the chairman, be estimated,*

the annual value of the premises shall be deemed to be six per cent of the total of the estimated value of the land and the estimated present cost of erecting the building after deducting for depreciation a reasonable amount which shall in no case be less than ten per centum of such cost; and

(*b*) machinery *and furniture* shall be excluded from valuations under this section.

Case Law: Sec. 82 (2):—The annual value of buildings which are in existence for only a portion of the year cannot be arrived at by distributing the gross rent for the period during which they are in existence over the period for which they are assessed under section 82 (2) of the Act.

The words "gross annual rent" and "reasonably be expected to let" do not permit the valuation to be fixed with reference to a shorter period than one year. 24 L.W. 212= A.I.R. 1926 Mad. 1007.

Sec. 82 (2) (a):—Proviso (a) to the section really indicates the mode of assessment and does not relate to any power of revision. 57 M.L.J. 251.

Exemption.

83. (1) The following buildings and lands shall be exempt from the property tax:—

(*a*) places set apart for public worship and either actually so used or used for no other purpose, choultries, *buildings used for educational purposes including hostels, public buildings and places used for the charitable purpose of sheltering the destitute or animals, libraries and play-grounds which are open to the public and such ancient monuments protected under the Ancient Monuments Preservation Act, 1904 or parts thereof as are not used as residental quarters or as public offices.*

(*b*) charitable hospitals and dispensaries *and such hospitals and dispensaries maintained by railway administrations, as may from time to time be notified by the Local Government*;

(*c*) *burial and burning grounds included in the book kept at the municipal office under section 281*;

(*d*) buildings or lands belonging to the municipal council;

(*e*) such property of Government not being buildings as may from time to time be notified by the *Local Government* with the consent of the municipal council.

Explanation.—The exemption granted under this section shall not extend to residential quarters attached to schools and colleges not being hostels or to residential quarters attached to hospitals, dispensaries and libraries.

(2) *The water and drainage tax shall not be levied on any land used exclusively for agricultural purposes and not deriving any benefit from the water or drainage works on account of which the tax is imposed.*

(3) *The municipal council may, with the previous sanction of the Local Government exempt any particular part of a municipality from the payment of the whole or a portion of the water and drainage tax or of the lighting tax on the ground that such area is not deriving full benefit from the water-supply and drainage or from the lighting system.*

(4) *The municipal council may exempt any building or land from the whole or any portion of the scavenging tax if it is satisfied that the owner or occupier has made efficient arrangements for the daily removal therefrom of rubbish, filth and the carcasses of animals.*

(5) *The municipal council may by a general resolution exempt any building or land from the property tax--*

(*i*) *if the annual value of the same does not exceed a sum specified in the said resolution, such sum not being greater than eighteen rupees*; *and*

(*ii*) *the proprietor does not own any other building or land assessed to the property tax and is not liable to profession or income-tax.*

NOTES : **Sec. 83** :—The Select Committee says :—" provisions exempting buildings owned and occupied by co-operative societies and buildings...............have been inserted." These provisions have not been incorporated in the Act by the legislature.

The term "public purposes" has not been defined in the Act. It is clear that the legislature exempts from ratability all educational institutions irrespective of the question whether the proprietor makes out of those institutions any private profit for himself or not. In the same way, all buildings used for educational purposes are exempt from payment of municipal tax. Doubts, if there were any, under Act V of 1920 have been removed by the amending Act where the words "from which no income is derived" have been omitted.

All the exemptions from payment of property tax have been grouped under this section.

Case Law : Sec. 83 :—When a mattom is in part or in whole used for purposes other than those of public worship, it is liable to taxation, and the feeding of Brahmins, although it may be meritorious is not public worship under the Act. 6 Mad. 287.

NOTES : **Sec. 83 (2)** :—The expression " agricultural " is not defined in the Act. In the Oxford English Dictionary "agriculture" is defined as follows " The science and art of cultivating the soil, including the allied pursuits of gathering in the crop and rearing the live stock, tillage husbandry farming (in the widest sense)." See 25 Mad. 627.

Taxation to be uniform.

84. (1) *The rate of any class of property tax on lands when levied on their annual value may be lower than the rate of the same class of property tax on buildings but either rate shall be uniform throughout the municipal area on all buildings or on all lands liable to be taxed on their annual value, as the case may be.*

Provided that the aggregate property *tax leviable in the case of light-houses, piers, wharves, jetties, and passenger sheds, latrines, cart-stands, retiring rooms and platforms belonging to a railway administration shall not exceed four per cent of their annuul value.*

(2) *The rate of any class of property tax shall be uniform throughout the municipal area on all lands liable to be taxed on their capital value.*

Property tax, a first charge on property.

85. The property tax on buildings and lands shall, subject to the prior payment of land revenue, if any, due to the Government thereon, be a first charge upon the said buildings or lands and upon the movable property, if any, found within or upon the same and belonging to the person liable to such tax.

Property tax when payable.

86. *The property tax shall be levied every half-year and shall, save as otherwise expressly provided in Schedule IV, be paid by the owner of the assessed premises within thirty days after the commencement of the half-year.*

Vacancy remission.

87. (1) *When any building whether ordinarily let or occupied by the owner himself has been vacant and unlet for thirty or more consecutive days in any half-year, the chairman shall remit so much not exceeding one-half of such portion of the tax as relates to the building only as is proportionate to the number of days during which the building was vacant and unlet in the half-year.*

(2) *Every demand for remission under sub-section (1) shall be made during the half-year in respect of which the remission is sought or in the following half-year and not afterwards.*

(3) (a) *No demand for such remission shall be entertained unless the owner of the building or his agent has previously thereto given notice to the chairman of the building being vacant and unlet and the period in respect of which the remission is made shall be calculated from the date of delivery of such notice.*

(b) *Every such notice shall expire with the half-year during which it is so delivered and shall have no effect thereafter.*

Obligation of transferor and transferee to give notice of transfer.

88. (1) Whenever the title of any person primarily liable to the payment of property tax on any premises to or over such premises is transferred, the person whose title is transferred and the person to whom the same shall be transferred shall within three months after the execution of the instrument of transfer or after its registration if it be registered or after the transfer is effected, if no instrument be executed, give notice of such transfer to the chairman.

(2) In the event of the death of any person primarily liable as aforesaid the person to whom the title of the deceased shall be trans-

ferred, as heir or otherwise shall give written notice of such transfer to the chairman within one year from the death of the deceased.

(3) The notice to be given under this section shall be in such form as the chairman may direct and the transferee or the person to whom the title passes, as the case may be, shall, if so required, be bound to produce before the chairman any documents evidencing the transfer or succession.

(4) Every person who makes a transfer as aforesaid without giving such notice to the chairman shall, in addition to any other liability which he incurs through such neglect, continue liable for the payment of property tax assessed on the premises transferred until he gives notice or until the transfer shall have been recorded in the municipal registers, but nothing in this section shall be held to affect—

(*a*) the liability of the transferee for the payment of the said tax,

or

(*b*) the prior claim of the municipal council under section 85.

Owner's obligation to give notice of construction, reconstruction or demolition of building.

89. (1) (*a*) *If any building in a municipality is constructed or reconstructed, the owner shall give notice thereof to the chairman within fifteen days from the date of completion or occupation of the building whichever is earlier.*

(*b*) *If such date falls within the last two months of a half-year, the owner shall, subject to notice being given under clause* (*a*), *be entitled to a remission of the whole of the tax or enhanced tax, as the case may be, payable in respect of the building only for that half-year.*

(*c*) *If such date falls within the first four months of a half-year, the owner shall, subject to notice being given under clause* (*a*), *be entitled to a remission of so much not exceeding a half of the tax or enhanced tax, as the case may be, payable in respect of the building only, for that half-year, as is proportionate to the number of days in that half-year preceding such date.*

(2) (*a*) *If any building in a municipality is demolished or destroyed, the owner shall, until notice thereof is given to the chairman, be liable for the payment of the property tax which would have been leviable had the building not been demolished or destroyed.*

(*b*) *If such notice is given within the first two months of a half-year, the owner shall be entitled to a remission of the whole of the tax payable in respect of the building only, for that half-year.*

(*c*) *If such notice is given within the last four months of a half-year, the owner shall be entitled to a remission of so much not exceeding a half of the tax payable in respect of the building only, for that half-year, as is proportionate to the number of days in that half-year preceding the demolition or destruction as the case may be.*

Remission of tax in areas included or excluded in the middle of a half-year.

90. (1) *If any area is included within a municipality the owner of every building or land in such area shall,*

(*a*) *if the date of such inclusion falls within the last two months of a half-year, not be liable to pay any property tax in respect thereof for that half-year; and*

(*b*) *if such date falls within the first four months of a half-year, be entitled to a remission of so much not exceeding a half of the property tax payable in respect thereof for that half-year, as is proportionate to the number of days in that half-year preceding such date.*

(2) *If any area is excluded from a municipality the owner of every building or land in such area shall be entitled—*

(*a*) *if the date of such exclusion falls within the first two months of a half-year, to a remission of the whole of the property tax payable in respect thereof for that half-year; and*

(*b*) *if such date falls within the last four months of a half-year, to a remission of so much not exceeding a half of the property tax payable in respect thereof for that half-year, as is proportionate to the number of days in that half-year preceding such date.*

(3) *No remission shall be granted under sub-section* (2) *in respect of any building or land unless an application for such remission is made to the chairman within three months from the date of the exclusion of the area in which the building or land is situated.*

Chairman's power to call for information and to enter upon premises.

91. (1) For the purpose of assessing the property tax, the chairman may, by notice, call on the owner or occupier of any land or building to furnish him *within thirty days after the service of the notice where the notice is served upon the Government, a railway administration or a company and within seven days after such service in other cases* with returns of the rent payable for the land or building, the cost of erecting the building and the measurements of the land *and with such other information as the chairman may require*; and every owner and occupier on whom such notice is served shall be bound to comply with it and to make a true return to the best of his knowledge or belief.

(2) For the purpose aforesaid the chairman may enter, inspect, survey and measure such building or land, after giving twenty-four hours' notice to the owner or occupier.

92. [*Omitted.*]

Profession tax.

Profession tax.

93. (*1*) *If the council by a resolution determines that a profession tax shall be levied—*

every company which, after the date specified in the notification published under section 80, transacts business in the municipality for not less than

sixty days in the aggregate in any half-year; and every person who, after the said date, in any half-year—

(a) *exercises a profession, art, or calling or transacts business or holds any appointment, public or private—*

(i) *within the municipality for not less than sixty days in the aggregate, or*

(ii) *without the municipality but who resides in the municipality for not less than sixty days in the aggregate, or*

(b) *resides in the municipality for not less than sixty days in the aggregate and is in receipt of any pension or income from investments, shall pay a half-yearly tax assessed in accordance with the rules in Schedule IV.*

(2) *A person shall be chargeable under the class appropriate to his aggregate income from all the sources specified in sub-section (1) as being liable to the tax.*

(3) *If a company or person proves that it or he has paid the sum due on account of the profession tax levied under this Act, or under the Madras Local Boards Act, 1920, or the companies or profession tax levied under the Madras City Municipal Act, 1919, or any tax of the nature of a profession tax imposed under the Cantonments Act, 1924, for the same half-year to any municipal council or local board or cantonment authority in the Presidency of Madras, such company or person shall not be liable, by reason merely of change of place of business, exercise of profession, art or calling, appointment or residence to pay to any other municipal council, local board or cantonment authority more than the difference between such sum and the amount to which it or he is otherwise liable for the profession or companies tax for the half-year under this Act, or any of the aforesaid Acts.*

(4) *Nothing contained in this section shall be deemed to render a person who resides within the local limits of one local authority and exercises his profession, art or calling or transacts business or holds any appointment within the limits of any other local authority or authorities liable to profession tax for more than the higher of the amounts of the tax leviable by any of the local authorities. In such a case the Local Government shall apportion the tax between the local authorities in such manner as they may deem fit and the decision of the Local Government shall be final."*

NOTES.—Under the amending Act the section has been recast and the difficulties felt under Act V of 1920 have been to a large extent removed.

Case Law: Sec. 93:—Tax on companies levied under S. 92 of the District Municipalities Act 1920 must be deducted as a business allowance under Section 10 (2) Clause 9 of the Income Tax Act. 47 M.L.J. 160. *See* (1911) A.C. 150 and (1915) A.C. 433.

A firm is not liable to pay profession tax under the Act except at their principal place of business. The section which imposes the tax is Sec. 93 and reading that section by itself it would seem to include all places of business in which the firm carries on trade. That this is not so is made clear from Clause (3) of the same section

which shows that if a tax is paid in one municipality that amount may be deducted from the income-tax that may fall due in another. 52 M.L.J. 360.

Sec. 93:—Large powers are conferred upon local bodies upon the strict understanding that they observe the conditions of the statute to which they owe their origin and to allow them to levy taxes upon private persons without strict compliance of the statute would be a grave scandal. A council may levy a tax on companies (78) (1) (b) if it publishes a notice of its intention (78) (3), then a notification in the District Gazette Sec. 80 and if the chairman publishes that notification the company shall be liable to pay the tax. Only on such terms can a council impose such a charge under the authority of the Act. 49 M.L.J. 542=22 L.W. 619=A.I.R. 1926 Mad. 152.

Sec. 93 (1):—"It cannot be gainsaid that the wording of the section is very unhappy. The word "profession" is not defined but evidently it was not designed to cover all the sources of income specified in the sub-section. The use of the word "and" instead of "or" between "salary" and "pension" is puzzling." (*Wallace, J.*)

"The section under consideration is only a specimen of the present day hasty and inaccurate legislation by large democratic bodies without the aid of trained and competent legislative draftsmen." (*Srinivasa Aiyangar, J.*)

The income received by a temple from investments of surplus devasthanam funds is not "professional income" within the meaning of Section 93 (1) and consequently is not taxable. The word "professional income" is "income received from the exercise of a profession". It is only when the making of the investment and the receipt of the income therefrom is followed as a profession that such income can be taxed. 54 M.L.J. 625.

Sec. 93 (3):—If a person who becomes successively liable in a single half-year to pay professional tax in two municipalities pays it in the second, he acquires exemption from liability to pay it in the first on a true construction of Section 93 (3) of the Act. 54 M.L.J. 147.

Liability of members of firms, associations and joint Hindu families to profession tax.

94. *The profession tax leviable from a firm, association or joint Hindu family may be levied from any adult member of the firm, association or family.*

Liability of servants or agents to profession tax.

94-A. (*1*) *If a company or person employs a servant or agent to represent it or him for the purpose of transacting business in a municipality, such company or person shall be deemed to transact business in the municipality and such servant or agent shall be liable for the profession tax, in respect of the business of such company or person, whether or not such servant or agent has power to make binding contracts on behalf of such company or person.*

(*2*) *Where one company or person is the agent of another company or person, the former company or person shall not be liable separately to the profession tax, on the same income as that of the principal.*

Case Law: Sec. 94 (a):—Section 92 of the District Municipalities Act of 1920 has not altered the law as it stood at the date of the *Clan Line Case* reported in 34 M.L.J. 145. The phrase "transacting business" in S. 92 means no more than the phrase "carrying on business."

It is obvious that the intention of the legislature in enacting the explanation was to nullify the effect of the decision in *Clan Line Case* and also generally to exclude the operation of the English cases. (*Per Madhavan Nair, J.*) 56 M.L.J. 525.

But the language employed has not succeeded in fully carrying out that intention.

See also (1896) A.C. 325; (1908) A.C. 46; (1896) A.C. 31; (1881) 8 Q.B.D. 414 and (1880) 15 Ch. D. 247.

If a company does carry on business in the municipality, the fact that it does so by an agent who has no power to make binding contracts is no longer one of the tests to be applied. The mere employment of the agent to do some work for the company within the municipality will not make the company liable to pay the tax so long as the effective management of the business, its administration and control are vested elsewhere. 56 M L.J. 525.

Service of notice on failure of payment of tax.

95. *If the profession tax due from any company or person is not paid, the chairman shall cause a notice to be served on such company or person to pay it within fifteen days of the date of such service.*

Statements, returns, etc., to be confidential.

95-A. *All statements made, returns furnished or accounts or documents produced in connexion with the assessment of profession tax by any company or person shall be treated as confidential and copies thereof shall not be granted to the public.*

Requisition on owner or occupier to furnish list of persons liable to tax.

96. The chairman may by notice require the owner or occupier of any building or land and every secretary or manager of a hotel, boarding or lodging house, club, or residential chambers to furnish within a specified time a list in writing containing the names of all *persons occupying such building, land, hotel, boarding or lodging house, club or residential chambers* and specifying the profession, art, calling, or appointment of every such person and the rent, if any, paid by him and the period of such occupation.

Requisition on employers or their representatives to furnish such list.

97. The chairman may by notice require any employer or the head or secretary or manager of any public or private office, hotel, boarding-house or club or of a firm or company—

(*a*) to furnish within a specified time a list in writing of the names of all persons employed by such employer or by such office, hotel, boarding-house, club, firm or company as officers, servants, dubashes, agents, suppliers, or contractors, with a statement of the salary or income of such employed persons, and

(*b*) to furnish particulars in regard to any *company* of which such employer, head, secretary or manager, as the case may be, is the agent.

Tax on carriages and animals.

General provisions regarding tax on carriages and animals.

98. (1) *If the council by a resolution determines that a tax on carriages and animals shall be levied, the chairman shall levy the said tax half-yearly on carriages and animals kept within the municipality which are of the kinds specified in Schedule IV.*

(2) The rates of the tax shall be determined by the council, provided always that they shall not exceed the maxima laid down in Schedule IV.

Case Law : **Sec. 98** :—A motor bus which plied for hire up and down the municipality is clearly a carriage let out for hire within the municipality on the true construction of Section 98 of the District Municipalities Act. The mere fact that it is let out to several people instead of to one or that it travels on a fixed route instead of being at the beck and call of any one of the numerous or all the numerous hirers makes no difference whatever. 53 M.L.J. 374.

Liability to tax according to period for which carriage or animal has been kept.

99. (1) Every person having possession, custody or control of any taxable carriage or animal shall be liable for the full half-yearly tax if the carriage or animal has been kept within the municipality for an aggregate period of not less than sixty days in the half-year.

(2) If such aggregate period exceeds fifteen days but is less than sixty days, a moiety only of the half-yearly tax shall be leviable.

(3) If such aggregate period does not exceed fifteen days, no tax *shall be leviable* for the half-year.

(4) Every person having possession, custody or control of any taxable carriage or animal within the municipality shall, until the contrary is shown, be presumed to have kept the same within the municipality for sixty days in the half-year.

(5) Notwithstanding anything contained in sub-sections (1) and (2) no person shall be liable to tax during any half-year on account of any carriage or animal in respect of which the full tax for the same half-year has already been paid by some other person.

Exemptions.

100. The carriage and animal tax shall not be levied on—

(*a*) carriages and animals belonging to the Government and used for military purposes;

(*b*) carriages and animals kept solely for sale by carriage-makers and dealers;

(*c*) carriages which have been under repair or standing at a carriage maker's during the whole of the half-year;

(*d*) horses belonging to mounted officers as defined in paragraph 1 (*b*) of the Regulations for the Indian Defence Force and to soldiers who are members of Light Horse, Mounted Rifles or Mounted infantry regiments, squadrons or platoons;

(*e*) motor-cycles belonging to officers and soldiers of a motor-cycle company, platoon or section or to other officers or soldiers whose motor-cycles are certified by the officer commanding their corps to be in good order and of actual service for the work of the corps;

(*f*) bicycles belonging to and solely used by *bona fide* members of cyclist sections of the Indian Defence Force;

(*g*) animals which during the whole of the half-year have been kept in any institution for the reception of infirm animals or which are certified by a veterinary surgeon to have been unfit for use during the whole of the half-year.

Provided that the exemption under clauses (*d*), (*e*) and (*f*) *shall not extend to any officer or soldier who is not compelled by the exigencies of military duty to reside within municipal limits nor to more than one horse, one motor-cycle, or one bicycle, as the case may be, for every such officer or soldier.*

Composition.

101. With the sanction of the council or in accordance with regulations framed by that body, the chairman may compound, for any period not exceeding one year, with any livery-stable keeper or other person keeping carriages and animals for sale or hire, for a certain sum to be paid in lieu of the carriage and animal tax.

Forms to be sent to and returned by tax-payers.

102. (1) The chairman shall send to every person supposed to have become liable to the payment of the *tax on carriages and animals* a printed table to be filled up with such information respecting the carriages and animals kept by him as the chairman considers necessary for the assessment of the tax.

(2) Such table shall be filled up with such information in writing, and signed and dated, and returned within one week of its receipt to the municipal office by the person to whom it has been sent.

(*3*) *On the expiry of the period of one week referred to in sub-section* (*2*), *the chairman shall cause a notice to be served on such person requiring him to pay within fifteen days of the date of such service the sum for which, in the opinion of the chairman, such person is liable on account of the tax on carriages and animals.*

Grant of licence on payment of tax.

103. When any person pays the amount of tax due in respect of any carriage or animal, the chairman shall grant him a licence to keep such carriage or animal for the period to which the payment relates.

Power to require numbers to be affixed to bicycles, etc.

104. (1) The chairman may direct that a municipal number shall be affixed—

(*a*) to every carriage let out for hire within the municipality, and

(*b*) to every bicycle and tricycle kept within the municipality:

Provided that no municipal number shall be requisite in the case of carriages to which a number must be affixed under the provisions of any special Act.

(2) The numbers affixed under sub-section (1) shall be registered in the municipal office.

Case Law: Sec. 104:—Where the portion of the axle of a cart on which the registration number had been painted was removed and affixed to the repaired axle, the cart

bears the registration number for the purposes of the act and the registration number is also properly affixed. 3 M.L.T. 405 = 18 M.L.J. 377.

Tax on carts.

General provisions regarding cart-tax.

105. (1) *If the council by a resolution determines that a tax shall be levied on carts, the chairman shall levy the said tax half-yearly at the rate (which shall not exceed four rupees per cart per half-year), fixed by the council and specified in the notification published under section* 80 *in pursuance of such resolution and from the date specified in such notification in respect of all carts kept within the municipality* ;

(2) Every owner of any such cart shall register it once in every half-year in the municipal office.

(3) The council may direct that a municipal number shall be affixed to every registered cart.

(4) The chairman shall notify certain days in every half-year for the registration and numbering of carts and the payment of the tax.

(5) All registrations made and numbers affixed under this section shall be entered in a book to be kept for the purpose at the municipal office.

(6) Such book shall be open to the inspection of any *person who pays any tax to the municipality* at all reasonable times without charge.

(7) This section shall not apply to carts belonging to the Government and used for military purposes, or carts kept solely for sale by cart-makers and dealers.

Power to remit tax.

106. The chairman may remit any portion of the cart-tax in respect of any cart which is shown to his satisfaction to have been kept within the municipality for an aggregate period not exceeding fifteen days in the half-year, or to have been under repair or standing at a cart-maker's during the whole of the half-year.

Taxes leviable under sections 98 *and* 105.

Pre-payment of municipal tax condition precedent to registration under Madras Act V of 1911.

106-A. *Where the Madras Hackney Carriage Act,* 1911, *is in force in any area of a municipality, the person appointed to perform the functions of the Commissioner under the said Act in respect of such area shall, before registering any hackney carriage thereunder satisfy himself that the municipal council has received payment of the tax, if any, due under section* 98 *or section* 105, *as the case may be, on account of the last preceding half-year and the current half-year.*

NOTES : **Sec. 106-A.** :—This is a new section added by the amending Act of 1930. Payment of municipal taxes has been made a condition precedent for the registration of carriages under the Hackney Carriage Act V of 1911.

Powers to seize carriages and carts not bearing numbers.

Seizure of vehicles not bearing numbers.

107. (1) If a municipal number is not affixed to a carriage or cart in pursuance of a direction issued under section 104 or section 105, as the case may be, the chairman may at any time seize and detain the vehicle and the animal, if any, by which it is drawn:

Provided that no vehicle other than a bicycle, tri-cycle, motor-bicycle or rickshaw shall be seized or detained when actually employed in the conveyance of any passenger or goods.

(2) If the vehicle or animal seized be not claimed and the tax due thereon paid within ten days from the date of seizure, the chairman may direct that the vehicle or animal shall be sold in public auction and the proceeds of the sale applied to the payment of—

(i) the tax, if any due, on the vehicle or animal sold;

(ii) such penalty not exceeding the amount of the tax as the chairman may direct; and

(iii) a sum of one rupee on account of charges incurred in connexion with the seizure, detention and sale.

(3) If the owner of the vehicle or animal or other person entitled thereto claims the same within ten days from the date of seizure or at any time before the sale, it shall be returned to him on payment of—

(i) the tax due thereon;

(ii) such penalty not exceeding the amount of the tax as the chairman may direct; and

(iii) a sum of eight annas on account of charges incurred in connexion with the seizure and detention.

Tax on servants.

General provision regarding servants' tax.

108. (1) If *a hill station municipal council by a resolution determines* that a tax shall be levied on servants, *the chairman shall collect* a monthly tax from the date and at the rates (which shall not exceed two rupees a month for each servant) fixed by the council and specified in the notification *published under section* 80 *in pursuance of such resolution* from every employer of private menial and of domestic servants who is not liable for the profession tax or surcharge on the income-tax or, as proprietor, for the property tax.

(2) The tax may differ for different classes of servants.

(3) The tax shall be payable at the full monthly rate for every servant employed for not less than fifteen days in the aggregate out of every thirty days from the commencement of the employment, and at a moiety of the monthly rate for every servant employed for less than fifteen days but not less than seven days in the aggregate during such periods.

(4) If the tax remains unpaid at the end of seven days or fifteen days, as the case may be, the chairman may serve upon the employer a notice requiring him to pay within three days from the service of such notice the sum for which he is believed to be liable, and may, on the expiry of such period, recover from the said employer the sum specified in such notice.

(5) Every person who has paid the servants' tax for any period in a half-year and has also paid the profession tax or surcharge on the income-tax or (as proprietor) the property tax in the same municipality for that half-year, shall be entitled to a refund of the sum paid as servants' tax.

Case-Law : Sec. 107 & 108 :—An attachment of a cart for want of license while it is ready to receive passengers and in motion is illegal under S. 89 of Act IV of 1884. 14 I.C. 199=13 Cr. L.J. 199.

Power to call for lists of servants.

109. The chairman may by notice require—

(*a*) every employer of private menial and domestic servants, and

(*b*) every secretary, owner or manager of a hotel, boarding or lodging house, club or residential chambers to furnish within a specified time a list in writing of the private menial and domestic servants employed by him or by every person resident in such place.

Tolls.

General provisions for tolls on vehicles and animals.

110. *If the council by a resolution determines* that tolls shall be levied on vehicles and animals entering the municipality, such tolls shall be levied at the rates fixed by the council in accordance with Schedule IV and specified in the notification *published under section 80 in pursuance of such resolution and from the date specified in such notification* ;

Provided that no toll shall be leviable on any vehicle or animal—

(*a*) licensed or registered by the municipal council,

(*b*) exempted by or under the Indian Tolls (Army) Act, 1901,

(*c*) carrying any military stores belonging to the Government,

(*d*) carrying any municipal or police officer on duty,

(*e*) carrying any person or property in the custody of a police officer, *or*

(*f*) *carrying a member of the Auxiliary Force, India, or of the Indian Territorial Force in uniform and on duty or proceeding to or returning from duty.*

NOTES : **Sec. 110** :—The word "licensed" in section 104 (3) (c) of the Madras Local Boards Act means licensed under Cl. (2) of the same section and not in the wider sense of licensed for any purpose whatever. This section corresponds to the above section. Here it does not appear that the word licensed should be used in a narrow sense. If a

license is granted by the municipal council, *e.g.* to use a motor vehicle to ply for hire such a vehicle is not liable to pay toll. Judicial opinion as to whether statutes imposing tolls need not be construed so strictly appears to be somewhat divided in England.

Construction of toll-bars and collection of tolls.

111. (1) The council *shall construct toll-stations and may construct toll-bars* on or within the municipal boundary and

(*a*) may place the collection of the tolls under the management of such persons as it thinks fit, or

(*b*) may farm them out on such terms and conditions as it thinks fit, with liberty to the farmer to exercise all or any of the powers conferred by or under this Act for the levy and collection of tolls :

Provided that—

(*a*) *no toll-stations shall be constructed on the boundary between contiguous municipalities, and*

(*b*) *the Local Government may either generally or in any particular case issue such orders as they may deem fit for regulating the number and location of toll-stations, and determining in the case of neighbouring local authorities which of the local authorities shall be in charge of particular toll-stations and how much of the revenue realized by any such local authority from a toll-station or toll-stations in its charge shall be paid to another neighbouring local authority.*

Composition.

(2) With the sanction of the council or in accordance with regulations framed by that body, the chairman may whether the tolls have been farmed out or not compound with any person living outside the municipality for a certain sum to be paid yearly or half-yearly in lieu of all tolls payable under the provisions of this Act.

Case Law :—Sec. 111 :—Under Sec. 64 of the Local Funds Act 1871 it was held that tolls can be demanded only at the place and in the mode prescribed in the statute.

"I do not desire it to be understood as saying that when a cart approaches a toll-station, and makes a *detour* to evade the payment of the toll otherwise than by a road available to the public, and enters the road within the circle at a point beyond the station within the sight of the toll-contractor, the cart may not be seized." (*Per Muthuswami Iyer, J.*) 6 M. 37.

Procedure in case of non-payment of tolls.

112. (1) If the toll leviable on a vehicle or animal is not paid on demand, the person appointed to collect it may seize and detain such portion of the appurtenances or load of such vehicle or animal as will, in his opinion, suffice to defray the amount due; in the absence of any such appurtenances or load or in the event of their value being insufficient to defray the amount due, he may seize and detain the vehicle or animal.

(2) All property seized under sub-section (1) shall be sent within twenty-four hours to the chairman or to such person as he may have authorized to receive and sell such property and the chairman shall forthwith give notice to the proprietor of the property seized, or, if the

proprietor is not known, or is not resident within the municipality, to the person who was in charge of the said property at the time when it was seized, or, if such person cannot be found, publish by beat of drum, that, after the expiry of two days, exclusive of Sunday, from the date of service or publication of such notice, the property will be sold in auction at a place to be specified in the notice.

(3) If at any time before the sale has begun the amount due on account of the toll, together with a sum of four annas on account of charges incurred in connexion with the seizure and detention, is tendered to the chairman, or other person authorized as aforesaid, the property seized shall be forthwith released.

(4) If no such tender is made, the property may be sold and the proceeds of the sale applied to the payment of

(i) the amount due on account of the toll;

(ii) such penalty not exceeding the amount of the toll as the chairman may direct; and

(iii) a sum of eight annas on account of charges incurred in connexion with the seizure, detention and sale.

Attempts to evade payment of toll.

113. No person shall with intent to evade payment of toll cause a vehicle or animal—

(*a*) to pass a toll-station in a rapid or surreptitious manner;

(*b*) to pass a toll-station without stopping if he is required by the toll-keeper to stop; or

(*c*) to leave a street on which a toll-station has been placed and pass over any adjacent land, not being either a public street or land of which such person is the owner or occupier.

Table of tolls.

114. At every toll-bar, or toll-station, a table of the tolls leviable shall be put up legibly written or painted in English and in the vernacular language of the district in some conspicuous place near such toll-station and in the absence of such table no tolls shall be leviable at the toll-station.

Case Law :—Sec. 114 :—It is obligatory to have a table of tolls put up at every toll-station and in the absence of such a table, no toll need be paid. 1 Weir 794.

Surcharge on the income-tax.

Assessment and recovery of surcharge on income-tax.

115. (1) The surcharge on income-tax shall be levied as an addition to the *income-tax payable under any Act of the Indian Legislature for the time being in force,* in respect of all income assessed within the municipality.

(2) The rate of surcharge shall be fixed annually by the council as a percentage of the income-tax payable:

Provided that—

(*a*) the rate shall in no case exceed fifty *per centum*;

(*b*) the rate fixed on the introduction of the surcharge shall not exceed any percentage which the Governor-General in Council may have fixed in his order granting sanction under section 79 to the levy of the surcharge ; and

(*c*) the rate shall not on any subsequent occasion be enhanced without the previous sanction of the Governor-General in Council.

(3) The surcharge shall be recovered as if it formed an integral part of the income-tax due from the assessee and for the purposes of such recovery the provisions of the *Indian Income-tax Act, 1922*, shall apply in so far as they are relevant and not inconsistent with the provisions of this Act.

(4) The amount of surcharge collected, together with a proportionate share of any sums levied under *section 46 of the Indian Income-tax, Act, 1922*, shall be paid to the municipal council subject to such deduction for expenses incurred in collection as the *Local Government* may determine.

Pilgrim tax.

Levy of pilgrim tax.

116. (1) *Where a municipality is resorted to by pilgrims, and the occasions for pilgrimage occur at intervals of years or only once or twice in a single year, a tax on persons leaving the municipality or its neighbourhood by railway, shall be levied only for a specified period in respect of each such occasion. Where occasions for pilgrimage are more frequent or a municipality is a place of pilgrimage of perennial resort, the tax may be levied throughout the year.*

(2) *The occasion and the period of levy of the tax shall, in consultation with the railway administrations concerned and with the previous approval of the Local Government, be determined by the municipal council.*

(3) *If the council resolves that the tax shall be levied, such tax shall be collected from the date and during the period specified in the notification published under section 80 in pursuance of such resolution as a surcharge on the tickets of all passengers travelling by railway from any one of the railway stations in or near the municipality and named in such notification to any other railway station more than a specified distance therefrom.*

(4) *The rates at which the tax shall be levied on each class of tickets shall be determined by the municipal council but shall not exceed the rates in the following table :—*

	Tax					
	For limited periods			*Throughout the year*		
(1)	(2)			(3)		
	Rs.	A.	P.	Rs.	A.	P.
For first-class tickets	*0*	*8*	*0*	*0*	*4*	*0*
For second-class tickets	*0*	*4*	*0*	*0*	*2*	*0*
For Intermediate class tickets	*0*	*3*	*0*	*0*	*1*	*6*
For third-class tickets	*0*	*2*	*0*	*0*	*1*	*0*

Provided that the rates leviable on season tickets, if any, shall be determined by the municipal council in consultation with the railway administrations concerned but shall not for a period of one month or any less period exceed six times the rates given in column (2) of the above table.

(5) The Local Government may make rules not inconsistent with this Act for regulating—

(i) *the collection of the tax,*

(ii) *the payment thereof to the council concerned,*

(iii) *the deduction of any expenses incurred by railway administrations in the collection thereof, and*

(iv) *the decision of disputes—*

(*a*) *between municipal councils and between municipal councils and other local authorities, and*

(*b*) *with the previous sanction of the Governor-General in Council between municipal councils and railway administrations, in matters connected with the levy, collection or apportionment of the tax.*

NOTES : **Sec. 116** :—The rates, of pilgrim tax were given under Act V of 1920 in schedule IV, rule 22. Under the amending Act the rates are given in this section, and rule 22 of schedule IV has been omitted.

General provisions regarding taxation and finance.

Power to exempt from taxes or tolls.

117. With the sanction of the *Local Government* the municipal council may exempt any person or class of persons wholly or in part from the payment of any tax or toll. *But nothing in this section shall be deemed to authorize the exemption of any person solely on the ground that he is a member of a municipal council.*

Power to write off irrecoverable taxes, tolls, etc.

118. *The municipal council may write off any tax, toll, fee or other amount whatsoever due to it, whether under a contract or otherwise, or any sum payable in connexion therewith, if in its opinion such tax, toll, fee, amount or sum is irrecoverable.*

Definition of municipal fund.

119. All moneys received by the municipal council shall constitute a fund which shall be called the municipal fund and shall be applied and disposed of subject to the provisions of this Act or other laws.

Budget estimate.

120. The municipal council shall *before the end of December* in each year frame a budget showing the probable receipts and the expenditure which it proposes to incur during the following year and shall submit a copy of the budget to the *Local Government before such date as may be fixed by them in that behalf.* The budget shall contain provision, adequate in the opinion of the *Local Government*, for the due discharge of all liabilities in respect of loans contracted by the council and for the maintenance of a working

balance; and if the budget as submitted to the *Local Government* fails to make these provisions, the *Local Government may modify any part of the budget* so as to ensure that such provisions are made.

NOTES: **Sec. 120**:—Under Act V of 1920 the municipal council was to frame the budget in February and submit a copy to the Local Government before the end of February. Under the amending Act the budget is to be framed before the end of December and a copy to be submitted to the Local Government before such date as may be fixed by the Local Government.

Revised or supplemental budget.

121. If in the course of a year a municipal council finds it necessary to modify the figures shown in the budget with regard to its receipts or to the distribution of the amounts to be expended on the different services it undertakes, it may submit a supplemental or revised budget provided that no alteration shall be made without the consent of the *Local Government* in the amount allotted for the service of debt or in the working balance.

Appointment of auditors of accounts.

122. The *Local Government* shall appoint auditors of the accounts of receipts and expenditure of the municipal fund. Such auditors shall be deemed to be 'public servants' within the meaning of section 21 of the Indian Penal Code.

Contributions to expenditure by other local authorities.

123. (1) If the expenditure incurred by the *Local Government* or by any other municipality to which this Act applies or by any other local authority in the Presidency of Madras for any purpose authorized by or under Part II of Schedule IV is such as to benefit the inhabitants of a municipality, the municipal council may, with the sanction of the *Local Government*, make a contribution towards such expenditure.

(2) The *Local Government* may direct a municipal council to show cause, within a month after a receipt of the order containing the direction, why any contribution described in sub-section (1) should not be made.

(3) If the municipal council fails to show cause within the said period to the satisfaction of the *Local Government*, the *Local Government* may direct it to make such contribution *as they shall name*, and it shall be paid accordingly.

Application of Schedule IV

124. The rules and tables embodied in Schedule IV shall be read as part of this Chapter.

Recovery of loans and advances made by the Local Government.

124-A. *Notwithstanding anything contained in the Local Authorities Loans Act, 1914, the Local Government shall be entitled to recover in the manner provided by sub-section* (4) *of section* 39 *of this Act or by suit any loan or advance made to any municipal council for any purpose to which the funds of the said council may be applied under this Act.*

PART IV—PUBLIC HEALTH—SAFETY AND CONVENIENCE.

CHAPTER VII—WATER-SUPPLY, LIGHTING AND DRAINAGE.

Water-supply—Vesting of works and powers of municipal authorities.

Vesting of works in municipal councils.

125. (1) All public water-courses and springs and all public reservoirs, tanks, cisterns, fountains, wells, stand-pipes, and other water-works existing at the time of the coming into force of this Act or afterwards made, laid or erected, and whether made, laid or erected at the cost of the municipal council or otherwise, and also any adjacent land (not being private property) appertaining thereto shall vest in the council and be subject to its control.

(2) The *Local Government* may by notification limit or define such control or may assume the administration of any public source of water-supply and public land adjacent and appertaining thereto after consulting the municipal council and giving due regard to its objections, if any.

Construction and maintenance of water-works.

126. (1) The municipal council may, with the sanction of the *Local Government*, direct the construction of such works as it deems fit without the limits of the municipality for supplying it with water and may provide channels, tanks, reservoirs, cisterns, engines, mains, wells, fountains, stand-pipes, and other works as it may deem fit within the said limits for the use of the inhabitants.

(2) The council may cause existing works for the supply of water to be maintained and supplied with water, or

it may close any such works and substitute other such works and may cause them to be maintained and supplied with water.

Trespass on premises connected with water-supply.

127. It shall not be lawful for any person except with permission duly given and obtained to enter upon land belonging to or vested in a municipal council along which a conduit or pipe runs, or upon any premises connected with the water-supply.

Prohibition of building over water mains.

128. (1) Without the permission of the council no building wall or other structure shall be newly erected and no street or railway shall be constructed over any municipal water mains.

(2) If any building wall or other structure be so erected or any street or railway be so constructed the council may cause the same to be removed or otherwise dealt with as shall appear to it fit and the expenses thereby incurred shall be paid by the persons offending.

Supply for domestic use.

Council to provide water for domestic use.

129. The municipal council shall, so far as the funds at its disposal may admit, provide a sufficient supply of water fit for the domestic use of the inhabitants.

Control over house-connexions.

130. All-house connexions, whether within or without the premises to which they belong, with any water-supply mains which may have been constructed by a municipal council shall be under the control of the council, but shall be altered, repaired and kept in proper order, at the expense of the owner of the premises to which they belong or for the use of which they were constructed, and in conformity with by-laws and regulations framed by the council in this behalf.

Private water-supply for consumption and domestic use and powers of chairman to enforce provision of water-supply.

131. (1) In municipalities in which there is a pipe supply of water, the chairman may, at his discretion, on application by the owner or occupier of any building, arrange in accordance with the by-laws, to supply water thereto for domestic consumption and use:

Provided that the chairman shall not without the sanction of the council, agree to supply water to any building assessed at an annual value of less than one hundred and twenty rupees.

(2) Whenever it appears to the chairman that any dwelling-house assessed at an annual value of not less than two hundred rupees is without a proper supply of water for domestic consumption and use and that such a supply can be furnished from a main not more than one hundred feet distant from any part of such building, the chairman may by notice require the owner to obtain such supply and to execute all such works as may be necessary for that purpose in accordance with the by-laws and regulations.

(3) The cost of making the connexion and the cost or hire of meters shall be borne by the owner or applicant and shall be recoverable in the same manner as the property-tax.

Explanation.—Supply of water for domestic consumption and use shall not be deemed to include a supply—

(*a*) for any trade, manufacture or business,

(*b*) for gardens or for purposes of irrigation,

(*c*) for building purposes,

(*d*) for fountains, swimming baths, public baths, tanks in or near temples and mosques within the municipality or for any ornamental or mechanical purpose,

(*e*) for animals, or for washing vehicles, where such animals or vehicles are kept for sale or hire;

but shall be deemed to include a supply—

(*a*) for flushing latrines,

(*b*) for all baths other than swimming baths or public baths,

(*c*) for the consumption and use of inmates of hotels, boarding-houses and the like and for baths used by such inmates.

(4) For all water supplied under this section in excess of a maximum determined by by-laws made by the council, payment shall be made at such times and on such conditions as may be laid down in such by-laws and shall be recoverable in the same manner as the property tax.

Private water-supply for non-domestic purposes.

Chairman's power to supply water for non-domestic purposes at rates fixed by council.

132. (1) The chairman may at his discretion supply water for any purpose other than domestic consumption and use on receiving a written application specifying the purpose for which such a supply is required and the quantity likely to be consumed.

(2) For all water supplied under sub-section (1) payment shall be made at such rates and such conditions shall be imposed as may be determined by the council by general or special order.

Supply beyond limits of municipality.

Supply without the municipality.

133. The council may with the sanction of and on such terms (if any) as may be approved by the *Local Government* supply water to a local authority or other person without the municipality.

Cutting off water-supply.

Power to cut off water-supply.

134. (1) The chairman may cut off the supply of municipal water from any premises—

(*a*) if the premises are unoccupied;

(*b*) if any water-tax or any sum due for water, for the cost of making a connexion or for the cost or hire of a meter or for the cost of carrying out any work or test connected with the water-supply which is chargeable to any person by or under this Act is not paid within fifteen days after a bill for such tax or sum has been presented;

(*c*) if, after receipt of a notice from the chairman requiring him to refrain from so doing, the owner or occupier continues to use the water or to permit it to be used in contravention of any by-law made under this Act;

(*d*) if the owner or occupier neglects within a period specified in any notice issued by the chairman under any by-law made under this Act to put up a meter or to comply with any other lawful order or requisition;

(*e*) if the owner or occupier wilfully or negligently damages his meter or any pipe or tap conveying municipal water;

(*f*) if the occupier refuses to admit the chairman into premises which he proposes to enter for the purpose of executing any work or of placing or removing any apparatus or of making any examination or inquiry in connexion with the water-supply, or prevents the chairman doing such work, placing or removing such apparatus or making such examination or inquiry;

(*g*) if any pipes, taps, works, or fittings connected with the municipal water-supply are found on examination by the chairman to be out of repair to such an extent as to cause waste or contamination of water;

(*h*) if the owner or occupier causes pipes, taps, works or fittings connected with the municipal water-supply to be placed, removed, repaired or otherwise interfered with in violation of the by-laws:

Provided that in cases under sub-clauses (*e*), (*f*), (*g*) and (*h*) the chairman shall not take action unless notice of not less than twenty-four hours has been given to the owner or occupier of the premises.

(2) The expense of cutting off the supply shall be paid by the owner or occupier of the premises.

(3) In cases under clause (*b*) as soon as any money for non-payment of which water has been cut off, together with the expense of cutting off the supply, has been paid by the owner or occupier, the chairman shall cause water to be supplied as before on payment of the cost (if any) of re-connecting the premises with the municipal water-works.

(4) No action taken under this section shall relieve any person from any penalties or liabilities which he may otherwise have incurred.

Non-liability of council for reduction or stoppage of supply in certain cases.

135. The municipal council shall not be liable to any penalty or damages for cutting off the supply of water or for not supplying water (save in the case of express stipulation in an agreement for the supply of water for other than domestic purposes) in the case of any drought, or other unavoidable cause or accident, or the necessity for relaying or repairing pipes.

Lighting.

Provision for lighting public streets.

136. The municipal council shall, so far as the funds at its disposal permit, cause the public streets to be lighted and for that purpose shall provide such lamps and works as it thinks necessary.

Public drainage.

Maintenance of system of drainage by council.

137. The municipal council shall, so far as the funds at its disposal may admit, provide and maintain a sufficient system of public drains.

Private drainage.

Control over house-drains, privies and cess-pools.

138. All house-drains whether within or without the premises to which they belong and all private latrines and cess-pools within the municipality shall be under the control of the municipal council but shall be altered, repaired, cleansed, and kept in proper order, at the expense of the owner of the premises to which the same belong or for the use of which they were constructed, and in conformity with by-laws and regulations framed by the council in this behalf.

Case Law :—**Sec. 138** :—The right of a municipal council to a drain is not affected by the acquisition of the right to a pial over the drain. The right of the municipal council to remove an obstruction does not depend on its title or right to the possession of it. The right to remove an encroachment on public roads is given in the interests of the public. 38 M. 6.=23 M. L. J. 479=17 I. C. 158.

Connexion of house-drains with public drains.

139. (1) The chairman shall on application by the owner or occupier of any premises or the owner of a private street arrange, in accordance with the by-laws, for the connexion of the applicant's drain with any public drain at a distance not exceeding three hundred feet therefrom at the applicant's expense.

(2) If there is a public drain or outfall within a distance not exceeding one hundred feet of the nearest point on any premises the chairman may by notice direct the owner of the said premises to construct a drain leading therefrom to such drain or place of outfall, and to execute all such works as may be necessary in accordance with the by-laws and regulations at such owner's expense.

(3) If any premises are, in the opinion of the chairman, without sufficient means of effectual drainage, but no part thereof is situated within one hundred feet of a public drain or its place of outfall, the chairman may by notice direct the owner of the said premises to construct a cess-pool or septic tank or filters of such material, dimensions and description, in such position and at such level as the chairman thinks necessary, and to construct a drain or drains emptying into such cess-pool, tank or filters and to execute all such works as may be necessary in accordance with the by-laws and regulations:

Provided that—

(*a*) no requisition shall be made under this section on any person who has been exempted from payment of the property tax under *sub-section* (5) *of section* 83;

(*b*) no person shall be required under this section to expend a sum exceeding five times the property tax on any such building, with the land assessed with it as part of the same premises; or in the case of buildings exempted under Sec. 83, five times the property tax which would be payable on such building with the land which would be

assessed with it to the property tax if such building were not exempt and if any amount exceeding the said sum is expended, the excess shall be borne by the council.

Chairman may close or limit the use of existing private drains.

140. (1) Where a drain connecting any premises with a public drain or other place set apart by the municipal council for the discharge of drainage is sufficient for the effectual drainage thereof and is otherwise unobjectionable, but is not, in the opinion of the chairman, adapted to the general drainage system of the municipality or of the part of the municipality in which such drain is situated, the chairman with the approval of the council may—

(*a*) subject to the provisions of sub-section (2) close, discontinue or destroy the said drain and do any work necessary for that purpose; or

(*b*) direct that such drain shall, from such date as he specifies in this behalf, be used for sullage and sewage only, or for water unpolluted with sullage or sewage only, and by notice require the owner of the premises to make, at his own expense, an entirely distinct drain for water unpolluted with sullage or sewage, or for sullage and sewage.

(2) No drain may be closed, discontinued or destroyed by the chairman under clause (1) (*a*) except on condition of his providing another drain as effectual for the drainage of the premises and communicating with a public drain or other place aforesaid: and the expense of the construction of any drain so provided by the chairman and of any work done under clause (1) (*a*) shall be paid by the council.

Power of chairman to drain premises in combination.

141. (1) When the chairman is of opinion that any group or block of premises any part of which is situate within one hundred feet of a municipal drain already existing, or about to be constructed, may be drained more economically or advantageously in combination than separately, the chairman may, with the approval of the council, cause such group or block of premises to be drained by such method as appears to the chairman to be best suited therefor and the expenses incurred by the chairman in so doing shall be paid by the owners in such proportions as the council may decide.

(2) Not less than fifteen days before any work under this section is commenced, the chairman shall give notice to the owners of—

(*a*) the nature of the intended work,

(*b*) the estimated expenses thereof, and

(*c*) the proportion of such expenses payable by each owner.

(3) The owners for the time being of the several premises constituting a group or block drained under sub-section (1) shall be the joint

owners of every drain constructed, erected or fixed, or continued for the special use and benefit only of such premises and shall, in the proportion in which it is determined that they are to contribute to the expenses incurred by the chairman under sub-section (1), be responsible for the expense of maintaining every such drain in good repair and efficient condition.

Building etc., not to be erected without permission over drains.

142. (1) Without the permission of the council, no person shall place or construct any fence, building, culvert, drain-covering, drain or other structure or any street, railway or cable over, under, in or across any public drain, or stop up, divert, obstruct or in any way interfere with any public drain, whether it passes through public or private ground.

(2) The chairman may remove or otherwise deal with anything placed or constructed in contravention of sub-section (1) as he shall think fit, and the cost of so doing shall be recoverable from the owner thereof in the manner provided in section 344.

Case Law Sec. 142 :—The rebuilding of a masonry structure covering the drain in front of a house by the owner thereof does not constitute interference with the drain, 21 M. 4.

Construction of culverts or drain-coverings by owner or occupier.

143. (1) The chairman may by notice require the owner or occupier of any building or land adjoining a public street to construct culverts or drain-coverings over the side-channels or ditches at the entrances to the said building or land.

(2) All culverts or drain-coverings or pials maintained over side-channels or ditches by the owners or occupiers of adjacent buildings or lands shall be of such form and size and consist of such materials and be provided with such means of ventilation as the chairman may by notice require and shall be maintained and kept free from all obstruction at the expense of the said owners or occupiers.

Maintenance of troughs and pipes for catching water.

144. The owner or occupier of any building in a public street shall, within fifteen days after receipt of notice in that behalf from the chairman, put up and thenceforward maintain proper troughs and pipes for catching and carrying the water from the roof and other parts of such building and for discharging such water in such manner as the chairman may permit.

Public latrines.

Provision of public latrines and urinals.

145. The council shall, as far as the funds at its disposal may admit, provide and maintain in proper and convenient places a sufficient number of public latrines and shall cause the same to be daily cleansed and kept in proper order.

Private latrines.

Provision of latrines by owner or occupier.

146. (1) The chairman may by notice require the owner or occupier of any building within the time specified in such notice to provide a latrine or alter or remove from an unsuitable to a more suitable place any existing latrine in accordance with the directions contained in such notice for the use of the persons employed in or about or occupying such building and to keep it clean and in proper order.

(2) Every owner or occupier of the ground on which any group of six or more huts stands shall provide latrines of such description and number and in such position as the chairman may by notice require, within such time as may be fixed in the notice, for the use of the inhabitants of such huts.

Case Law :—Sec. 146 :—The intention of the section is to empower the municipality to require the owner or occupier of a building to provide a latrine or alter an existing latrine in the interests of the general public and in particular of the neighbouring residents and not in the interests of the owner or occupier of the building. 52 M L.J. 335.=25 L.W. 385.

Provision of latrines for labourers.

147. Every person employing workmen, labourers or other persons exceeding ten in number, shall provide and maintain for the separate use of persons of each sex so employed latrines of such description and number and in such position as the chairman may by notice require, within such time as may be fixed in the notice.

Provision of latrines for markets, cart-stands, cattle-sheds, choultry, etc.

148. The chairman may by notice require the owner or manager of a market, cart-stand, cattle-shed, choultry, theatre, railway station, dock, wharf or other places of public resort within the time specified in such notice to provide and maintain for the separate use of persons of each sex latrines of such description and number and in such position as may be specified in such notice.

Latrines to be screened from view and kept clean.

149. All latrines shall be so constructed as to screen persons using the same and the filth from the view of persons passing by or residing in the neighbourhood and shall be kept clean and in proper order.

General powers.

Power to carry wire, pipes, drains, etc., through private property subject to causing as little inconvenience as possible and paying for direct damage.

150. The chairman may carry any cable, wire, pipe, drain or channel of any kind to establish or maintain any system of drainage, water-supply or lighting, through, across, under, or over any road, street or place laid out for a road or street, and after giving reasonable notice to the owner or occupier, through, across, under, over or up the side of, any land or building in the municipality, and may place and maintain posts, poles, standards, brackets, or other contrivances to

support wires and lights on any pole or post in the municipality not owned by the Government of India, and may do all acts necessary or expedient for repairing or maintaining any such cable, wire, pipe, drain, channel, post, pole, standard, bracket or other similar contrivance in an effective state for the purpose of which it is intended to be used or for removing the same :

Provided that such work shall be done so as to cause the least practicable nuisance or inconvenience to any person.

Provided further that the chairman shall, with the sanction of the council, pay compensation to any person who sustains damage by the exercise of such power.

Prohibition against making connexion with mains without permission.

151. (1) No person shall, without the permission of the chairman, make any connexion with any municipal cable, wire, pipe, drain or channel or with the house-connexion of any other person.

(2) The chairman may by notice require any connexion made in contravention of sub-section (1) to be demolished, removed, closed, altered or re-made.

Powers in respect of works outside the municipality.

152. (1) The municipal council shall not undertake new works beyond the limits of the municipality without the sanction of the *Local Government*.

(2) The council may in the execution and for the purpose of any works beyond the limits of the municipality sanctioned by the *Local Government* whether before or after the passing of this Act, exercise all the powers which it may exercise within the municipality throughout the line of the country through which conduits, channels, pipes, lines of posts and wires and the like run and with the sanction of the *Local Government*—

(*a*) over any lake, tank or reservoir, from which a supply of water for drinking, for producing electric energy or for other purposes is derived, and over all lands within one mile of the high water level of any such lake, tank or reservoir,

(*b*) over any water-course from which a supply of water for drinking, for producing electric energy or for other purposes is derived, within one mile above and half a mile below any point at which water is taken for such use, and

(*c*) over any lands used for sewage farms, sewage disposal tanks, filters and other works connected with the drainage of the municipality.

CHAPTER VIII.—SCAVENGING.

Municipality to arrange for the removal of rubbish and filth.

153. Every municipal council shall make adequate arrangements for—

(*a*) the regular sweeping and cleansing of the streets and removal of sweepings thereform;

(*b*) the daily removal of filth and the carcasses of animals from private premises; and

(*c*) the daily removal of rubbish from dust-bins and private premises; and with this object, it shall provide

(i) depots for the deposit of filth, rubbish and the carcasses of animals;

(ii) covered vehicles or vessels for the removal of filth;

(iii) vehicles or other suitable means for the removal of the carcasses of large animals and rubbish; and

(iv) dust-bins for the temporary deposit of rubbish.

NOTES:—**Sec. 153**:—Under Act V of 1920 and the amending Act, it is the duty of the municipal council to make arrangements for the removal of filth etc.

Under Act V of 1920 it was open to the chairman to contract with the owner or occupier to remove rubbish etc., from any premises on such terms as to times and periods of removal and other matters and on payment of fees laid down by the council. Under the amending Act, scavenging tax has been included as an item of property tax under section 81 which may be collected as tax.

154. [*Omitted*].

155. [*Omitted*].

Contributions from persons having control over places of pilgrimage, etc.

156. *Where a mosque, temple, mutt or any place of religious worship or instruction or any place which is used for holding fairs, festivals or for other like purposes is situated within the limits of a municipality or in the neighbourhood thereof and attracts either throughout the year or on particular occasions a large number of persons, any special arrangements necessary for public health, safety or convenience whether permanent or temporary shall be made by the municipal council, and the council may require the trustee or other person having control over such place to make such recurring or non-recurring contribution as the Local Government may determine to the funds of the municipal council.*

Prohibition of improper disposal of carcasses, rubbish & filth.

157. No person shall after due provision has been made under section 153 by the municipal council for the deposit and removal of the same,

(*a*) deposit the carcasses of animals, rubbish or filth, in any street, or on the veranda of any building, or on any unoccupied ground alongside any street, or on any public quay, jetty or landing-place, or on the bank of a water-course or tank; or

(*b*) deposit filth or carcasses of animals in any dust-bin or in any vehicle not intended for the removal of the same; or

(c) deposit rubbish in any vehicle or vessel intended for the removal of filth save for the purpose of deodorizing or disinfecting the filth.

Prohibition against keeping filth on premises too long, etc.

158. No owner or occupier of any premises shall keep or allow to be kept for more than twenty-four hours any filth on such premises or any building or on the roof thereof or in any out-building or any place belonging thereto, or fail to comply with any requisition of the chairman as to the construction, repair, paving or cleansing of any latrine on or belonging to his premises.

Prohibition against allowing out-flow of filth.

159. No owner or occupier of any premises shall allow the water from any sink, drain, latrine or stable, or any other filth to flow out of such premises to any portion of a street except a drain or a cess-pool or to flow out of such premises in such a manner as to cause an avoidable nuisance by the soakage of the said water or filth into the walls or ground at the side of a drain forming a portion of a street.

Case Law :—Sec. 159 :—If an occupier of land in a municipal area lets offensive water flow into the street which has not been provided with any side drains it is open to the municipality ,to lodge a complaint against him and get him convicted, 38 I.C. 768,

Prohibition against using any cart without cover in the removal of filth, etc.

160. No person shall, in the removal of filth, use any cart or receptacle not having a covering proper for preventing the escape of the contents thereof, or of the stench therefrom, or intentionally or negligently spill any filth in the removal thereof, or omit carefully to sweep and clean every place in which any such filth has been spilled, or place or set down in any public place any filth whether in a vessel closed or open.

Prohibition against throwing rubbish or filth into drains.

161. No person shall put or cause to be put any rubbish or filth into any public drain not intended for rubbish or filth or into any drain communicating with any such public drain.

CHAPTER IX.—STREETS.

Public Streets.

Maintenance and repair of streets.

162. (1) The municipal council shall, at the cost of the municipal fund, cause the public streets and bridges to be maintained and repaired and may from the same fund meet the cost of all improvements to the same which are necessary or expedient for the public safety or convenience.

(2) *The council may entrust to any other local authority with the consent of such authority the maintenance of any public street or portion thereof, the cost of maintenance being provided by the council.*

Powers of municipal authorities.

163. (1) The council may—

(*a*) lay out and make new public streets;

(*b*) construct bridges and sub-ways;

(*c*) turn, divert or, with the special sanction of the *Local Government*, permanently close any public street or part thereof;

(*d*) widen, open, extend or otherwise improve any public street.

(2) Reasonable compensation shall be paid to the owners and occupiers of any land or buildings which are required for or affected by any such purposes.

Power to dispose of permanently closed streets.

164. (1) When a public street is permanently closed under section 163, the municipal council may, with the sanction of the *Local Government*, dispose of the site or of so much thereof as is no longer required, in such manner as may be approved by the *Local Government*, provided that due compensation is made to any person injured by such closing.

(2) In determining such compensation, allowance shall be made for any benefit accruing to the same premises or any adjacent premises belonging to the same owner from the construction or improvement of any other public street at or about the same time that the public street, on account of which the compensation is paid, is closed.

Acquisition of land and buildings for improvement of streets.

165. (1) The council may acquire—

(*a*) any land required for the purpose of opening, widening, extending, or otherwise improving any public street, or of making any new public street, and the buildings, if any, standing upon such land; and

(*b*) any land outside the proposed street alignment, with the buildings, if any, standing thereupon:

Provided that, in any case in which it is decided to acquire any land under clause (*b*) of this sub-section, the owner of such land may retain it by paying to the municipal council an annual sum to be fixed by the council in that behalf, or a lump sum to be fixed by the council, not being less than twenty-five times such annual sum and subject to such conditions as the council thinks fit as to the removal of the existing building, if any, the description of the new building (if any) to be erected, the period within which the new building (if any) shall be completed and any other similar matters.

(2) If any sum payable in pursuance of the proviso to sub-section (1) in respect of any land be not duly paid, it shall be recoverable in the manner provided by this Act for the collection of taxes, and, if not so recovered, the chairman may enter upon the land, and sell it, with any erections standing thereon, by public auction subject to the conditions, if any, imposed under sub-section (1) above and may deduct the said sum

and the expenses of the sale from the proceeds of the sale and shall pay the balance (if any) to the defaulter.

(3) Any sum paid in pursuance of the proviso to sub-section (1) or recovered under sub-section (2) in respect of any land shall be left out of account in determining the annual value of such land for the purpose of assessing it to the property tax.

(4) Any land or building acquired under sub-section (1), clause (*b*), may be sold, leased or otherwise disposed of after public advertisement, and any conveyance made for that purpose may comprise such conditions as the council thinks fit as to the removal of the existing building, if any, the description of the new building (if any) to be erected, the period within which the new building (if any) shall be completed and any other similar matters.

(5) The council may require any person to whom any land or building is transferred under sub-section (4) to comply with any conditions comprised in the said conveyance before it places him in possession of the land or building.

Power to prescribe building line and street alignment.

166. The council may—

(*a*) prescribe for any public street a building line or a street alignment or both;

(*b*) from time to time define a fresh line in substitution for any line so defined or for any part thereof:

Provided that in either case –

(i) at least one month before the meeting of the council at which the matter is decided, public notice of the proposal has been given and special notice thereof has also been put up in the street or part of the street for which such line is proposed to be defined; and

(ii) the council consider all objections to the said proposal made in writing and delivered at the municipal office not less than three clear days before the day of such meeting.

Buildings not to be constructed within street alignment or building line.

167. (1) No person shall construct any portion of any building within a street alignment defined under section 166.

(2) No person shall erect or add to any building between a street alignment and a building line defined under section 166 except with permission of the chairman, who may when granting permission impose such conditions as the council may lay down for such cases.

Setting back projecting buildings or walls.

168. (1) When any building or part thereof abutting on a public street is within a street alignment defined under section 166, the chairman may, whenever it is proposed

(*a*) to rebuild such building or take it down to an extent exceeding one-half thereof above the ground level, such half to be measured in cubic feet; or

(*b*) to remove, reconstruct or make any addition to any portion of such building which is within the street alignment;

in any order which he issues concerning the rebuilding, alteration or repair of such building, require such building to be set back to the street alignment.

(2) When any building or any part thereof within the street alignment falls down or is burnt down or is, whether by order of the chairman or otherwise, taken down, or when any private land without any building thereon lies within the street alignment, the chairman may forthwith take possession on behalf of the council of the portion of land within the street alignment and, if necessary, clear it.

(3) Land acquired under this section shall be deemed a part of the public street and shall vest in the municipal council.

(4) When any building is set back in pursuance of any requisition made under sub-section (1), or when the chairman takes possession of any land under sub-section (2), the council shall forthwith make full compensation to the owner for any direct damage which he may sustain thereby.

Explanation.—The expression 'direct damage' as used in sub-section (4) with reference to land means the market value of the land taken and the depreciation, if any, in the ordinary market value of the rest of the land resulting from the area being reduced in size; but does not include damage due to the prospective loss of any particular use to which the owner may allege that he intended to put the land, although such use may be injuriously affected by the reduction of the site.

Case Law :—**Sec. 168**:—The municipal council is not entitled to remove the projections and encroachments made by a person who has acquired full title to them and to the site on which the encroachment stood. (38 M. 6 DISTINGUISHED) 38 M. 456=14 M.L.J. 187.

Setting buildings forward to improve line of street.

169. The council may, upon such terms as it thinks fit, allow any building to be set forward for the purpose of improving the line of a public street and may, by notice, require any building to be so set forward in the case of reconstruction thereof or of a new construction.

Explanation.—For the purpose of this section a wall separating any premises from a public street shall be deemed to be a building: and it shall be deemed a sufficient compliance with permission or requisition to set forward a building to the street alignment if a wall of such material and dimensions as are approved by the chairman is erected along the said line.

170. (1) The council may prepare schemes and plans of proposed public streets, showing the direction of such streets, the street alignment and building line on each side of them, their intended width and such other details as may appear desirable.

Projected streets.

(2) The width of such proposed streets shall not *ordinarily* be less than forty feet, or in any area covered by huts, twenty feet.

(3) It shall be the duty of the council to lay out public streets in areas covered by huts, so far as may be practicable, both for the purpose of securing proper ventilation for huts in such areas, and in view to the contingency of buildings being erected therein.

(4) When any plan has been prepared under sub-section (1), the street to which it refers shall be deemed to be a projected public street, and the provisions of section 168 shall apply to all buildings, so far as they stand across the street alignment or building line of the projected street.

171. The council shall, so far as it considers it requisite for the public convenience, and so far as funds permit, cause the chief public streets to be watered, and for that purpose may provide such water-carts, animals and apparatus as it thinks necessary.

Watering of streets.

172. The chairman may by an order in writing temporarily close any street to traffic for repair, or in order to carry out any work connected with drainage, water-supply or lighting or any of the purposes of this Act:

Temporary closure of streets.

Provided that such work shall be completed and such street re-opened to traffic with all reasonable speed.

173. It shall not be lawful for any person, without the permission of the chairman, to displace, take up, or make any alteration in the fences, posts, pavement, flags or other materials of any public street.

Protection of appurtenances and materials of streets.

174. When by a certificate of an officer of the Government Public Works Department of a rank not below that of Executive Engineer it appears to the council that, having regard to the average expense of repairing roads in the neighbourhood, extraordinary expenses have been incurred by the municipal council in repairing a street by reason of the damage caused by excessive weight passing along the street or extraordinary traffic thereon, the council may recover in the civil court having jurisdiction from any person by or in consequence of whose order such weight or traffic has been conducted the amount of such expenses as may be proved to the satisfac-

Power of municipality to recover expenses caused by extraordinary traffic.

tion of such court to have been incurred by such council by reason of the damage arising from such weight or traffic as aforesaid:

Provided that any person against whom expenses are or may be recoverable under this section may enter into an agreement with the council for the payment to it of a composition in respect of such weight or traffic and thereupon the persons so paying shall not be subject to any proceedings under this section.

Licensing of motor vehicles plying for hire and motor lorries.

174-A. (*1*) *No person shall use*

(*a*) *any motor vehicle for carrying passengers for hire or*

(*b*) *any motor lorry*

on any public street in any municipality, except on a licence obtained from the chairman.

(*2*) *The municipal council may, with the previous approval of the Local Government, make regulations determining the rates of fares for passengers and of freight for goods carried in such vehicles and specifying the other conditions on which such licences may be granted.*

(*3*) *Every licence granted under sub-section* (*1*) *shall expire at the end of the year in which it is granted.*

(*4*) (*a*) *Any person aggrieved by an order of the chairman under sub-section* (*1*) *may appeal against such order to the municipal council.*

(*b*) *The period of limitation for such appeal shall be—*

(*i*) *where the appeal is against an order refusing a licence,*	*fifteen days from the date of communication of the order to the applicant; and*
(*ii*) *where the appeal is against an order granting a licence,*	*thirty days from the date of publication of the order on the notice board of the municipal council.*

(*5*) *Where a motor vehicle has been licensed under sub-section* (*2*) *of section 166 of the Madras Local Boards Act, 1920, to be used for hire partly outside municipal limits and partly within such limits, no fee shall be charged for a licence granted under sub-section* (*1*) *in respect of such vehicle, and the conditions specified in such licence shall relate only to the regulation of the use of the public streets in the municipality by such vehicle.*

NOTES: **Sec. 174-A**:—See section 166 of the Local Boards Act. An appeal to the council against an order of the chairman granting or refusing to grant a licence is provided for.

Case Law: Sec. 174-A:—The section is intended to make persons who use any street in a municipality for making money by using motor vehicles upon it, pay for that privilege by taking out a licence. A.I.R. 1930 M. 441=59 M.L.J. 232.

Private streets.

Owner's obligation to make a street when disposing of land as building sites.

175. If the owner of any land utilizes, sells, leases or otherwise disposes of such land or any portion or portions of the same as sites for the construction of buildings, he shall save in such cases as the site or sites may abut on an existing public or private street, lay down and make a street or streets or road or roads giving access to the site or sites and connecting with an existing public or private street.

Making of new private streets.

176. (1) Any person intending to make or lay out a new private street shall send to the municipal office a written application with plans and sections showing the following particulars, namely,—

(*a*) the intended level, direction and width of the street,

(*b*) the street alignment and the building line, and

(*c*) the arrangements to be made for levelling, paving, metalling, flagging, channelling, sewering, draining, conserving and lighting the street.

(2) The provisions of this Act and of any rules or by-laws made under this Act as to the level and width of public streets and the height of buildings abutting thereon shall apply also in the case of streets referred to in sub-section (1); and all the particulars referred to in that sub-section shall be subject to approval by the council.

(3) Within sixty days after the receipt of any application under sub-section (1) the council shall either sanction the making of the street on such conditions as it may think fit, or disallow it, or ask for further information with respect to it.

(4) Such sanction may be refused—

(i) if the proposed street would conflict with any arrangements which have been made, or which are in the opinion of the council likely to be made, for carrying out any general scheme for the laying out of streets,

(ii) if the proposed street does not conform to the provisions of the Act, rules and by-laws referred to in sub-section (2), or

(iii) if the proposed street is not designed so as to connect at one end with a street which is already open.

(5) No person shall make or lay out any new private street without or otherwise than in conformity with the orders of the council. If further information is asked for, no steps shall be taken to make or lay out the street until orders have been passed upon receipt of such information:

Provided that the passing of such order shall not in any case be delayed for more than sixty days after the council has received all the information which it considers necessary to enable it to deal finally with

the said application. Any application not disallowed within a period of one hundred and twenty days from the date of receipt in the municipal office shall be deemed to have been sanctioned.

Alteration or demolition of street made in breach of section 176.

177. (1) If any person makes or lays out any street referred to in section 176 without or otherwise than in conformity with the orders of the council, the chairman may, whether or not the offender be prosecuted under this Act, by notice—

(*a*) require the offender to show sufficient cause, by a written statement signed by him and sent to the chairman on or before such day as may be specified in the notice, why such street should not be altered to the satisfaction of the chairman, or if such alteration be impracticable, why such street should not be demolished, or

(*b*) require the offender to appear before the chairman either personally or by a duly authorized agent on such day and at such time and place as may be specified in the notice, and show cause as aforesaid.

(2) If any person on whom such notice is served fails to show sufficient cause to the satisfaction of the chairman why such street should not be so altered or demolished, the chairman may pass an order directing the alteration or demolition of such street.

Power of chairman to order work to be carried out or to carry it out himself in default.

178. (1) If any private street or part thereof is not levelled, paved, metalled, flagged, channelled, drained, conserved or lighted to the satisfaction of the chairman, he may by notice require the owners or occupiers of buildings or lands fronting or abutting on such street or part thereof to carry out any work, which in his opinion may be necessary and within such time as may be specified in such notice.

(2) If such work is not carried out within the time specified in the notice, the chairman may, if he thinks fit, execute it and the expenses incurred shall be paid by the owners or occupiers in default according to the frontage of their respective buildings or lands and in such proportion as may be settled by the chairman.

Right of owners to require street to be declared public.

179. If any street has been levelled, paved, metalled, flagged, channelled, drained, conserved and lighted under the provisions of section 178 such street shall, on the requisition of not less than three-fourths of the owners thereof, be declared a public street.

Encroachment on streets.

Prohibition against obstructions in or over streets.

180. No one shall build any wall or erect any fence or other obstruction, or projection, or make any encroachment in or over any street except as hereinafter provided.

Public streets open to all.

180-A.* All streets vested in or to be vested in or maintained by a municipal council shall be open to persons of whatever caste or creed.

Prohibition and regulation of doors, ground-floor windows and bars opening outwards.

181. (1) No door, gate, bar or ground-floor window shall without a licence from the chairman be hung or placed so as to open outwards upon any street.

(2) The chairman may by notice require the owner of such door, gate, bar or window to alter it so that no part thereof when open shall project over the street.

Removal of encroachments.

182. (1) The chairman may by notice require the owner or occupier of any premises to remove or alter any projection, encroachment or obstruction (other than a door, gate, bar or ground-floor window) situated against or in front of such premises and in or over any street.

(2) If the owner or occupier of the premises proves that any such projection, encroachment or obstruction has existed for a period sufficient under the law of limitation to give any person a prescriptive title thereto or that it was erected or made with the permission or licence of any municipal authority duly empowered in that behalf, and that the period, if any, for which the permission or licence is valid has not expired, the municipal council shall make reasonable compensation to every person who suffers damage by the removal or alteration of the same.

Case Law: Sec. 182:—The only object of saying that the chairman may require the owner or the occupier to remove encroachment is to enlarge the class of persons against whom notice may be sent and not to restrict it. Either the owner may be proceeded against or the occupier or both. There is nothing in the use of the word "or" in the section which restricts the municipality to choosing one out of the two persons proceeded against. 58 M.L.J. 622=A.I.R. 1930 Mad. 510 (1)

The object of the section is not to empower the municipality to compulsorily acquire a private property but its scope is limited to authorising the municipal body in public interest to cause obstructions and encroachments to be removed.

If the owner proves that the encroachment had existed for a period sufficient under the law of limitation to give him a prescriptive title thereto, is all the same bound to comply with the order but in that event he will be entitled to a reasonable compensation from the municipal council. (1870) L.R. 9 E.Q. Cases 671 REFERRED TO). 47 M.L.J. 470. [*See* 38 M. 456=25 M.L.J. 297; a decision on Sec. 168 of the repealed Act IV of 1884. *See* also 38 M. 6=23 M.L.J. 479.]

Under Section 182 of the District Municipalities Act of 1920 a municipal council is entitled to remove an encroachment the title to which became perfected before the commencement of the Act. There is nothing in section 182 to suppose that any distinction is drawn between a title perfected before the coming into force of the Act and a title perfected after its coming into force. 54 M.L.J. 581.

Adverse possession by a person for 12 years of a portion of the street vested in the municipality gives a clear title as against the municipality. 38 M. 456.

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*Added by Act XVII of 1929.

Power to allow certain projections and erections.

183. (1) The council may grant a licence, subject to such conditions and restrictions as it may think fit, to the owner or occupier of any premises to put up verandahs, balconies, sun-shades, weather-frames and the like, to project over a street, or in streets in which the construction of arcades has been sanctioned by the council, to put up an arcade; or to construct any step or drain-covering necessary for access to the premises.

(2) *The chairman may grant a licence, subject to such conditions and restrictions as he may think fit, for the temporary erection of pandals and other structures in a public street vested in the council or in any other public place the control of which is vested in the council.*

(3) *The council shall have power to lease road-sides and street margins vested in it for occupation on such terms and conditions and for such period as the council may fix.*

(4) *But neither a licence under sub-section (1) nor a lease under sub-section (3) shall be granted if the projection, construction or occupation is likely to be injurious to health or cause public inconvenience or otherwise materially interfere with the use of the road as such.*

(5) *The Local Government may, by notification, restrict and place under such control as they may think fit, the exercise by municipal councils in general or by any municipal council in particular, of the powers under sub-sections (1) and (3).*

(6) *On the expiry of any period for which a licence has been granted under this section, the chairman may, without notice, cause any projection or construction put up under sub-section (1) or (2) to be removed, and the cost of so doing shall be recoverable in the manner provided in section 344 from the person to whom the licence was granted.*

NOTES: **Sec. 183**:—Under Act V of 1920, temporary construction in a street could be allowed only for twenty days and that only on occasions of festivals and ceremonies. Under the amending Act, the chairman has power to sanction temporary erection of pandals and other structures in streets under certain conditions. The council has got the further power to lease road-sides and street margins for occupation subject to terms and conditions and for such period as the council may fix.

Precautions during repair of streets.

184. (1) The chairman shall, during the construction or repair of any street, drain or premises vested in the municipal council

(*a*) cause the same to be fenced and guarded,

(*b*) take proper precautions against accident by shoring up and protecting the adjoining buildings, and

(*c*) cause such bars, chains or posts to be fixed across or in any street in which any such work is under execution as are necessary in order to prevent the passage of vehicles or animals and avert danger.

(2) The chairman shall cause such drain, street or premises to be sufficiently lighted or guarded during the night while under construction or repair.

(3) The chairman shall, with all reasonable speed, complete the said work, fill in the ground, and repair the said drain, street, or premises and remove the rubbish occasioned thereby.

Prohibition against removal of bars and lights.

185. No person shall without lawful authority remove any bar, chain, post or shoring timber or remove or extinguish any light set up under section 184.

Prohibition against making holes and causing obstruction.

186. (1) No person shall make a hole or cause any obstruction in any street unless he previously obtains the permission of the chairman and complies with such conditions as that officer may impose.

(2) When such permission is granted, such person shall, at his own expense, cause such hole or obstruction to be sufficiently fenced and enclosed until the hole or obstruction is filled up or removed and shall cause such hole or obstruction to be sufficiently lighted during the night.

Licence for work on buildings likely to cause obstruction.

187. If any person intends to construct or demolish any building or to alter or repair the outward part thereof, and if any street or footway is likely to be obstructed or rendered inconvenient by means of such work, he shall first obtain a licence from the chairman in that behalf and shall also—

(*a*) cause the said building to be fenced and guarded,

(*b*) sufficiently light it during the night, and

(*c*) take proper precautions against accidents during such time as the public safety or convenience requires.

Clearing of debris of fallen houses, etc., by occupiers.

188. If any obstruction is caused in any street by the fall of trees, structures or fences, the owner or occupier of the premises concerned shall within twelve hours of the occurrence of such fall, or within such further period as the chairman may by notice allow, clear the street of such obstruction.

Naming of streets.

Naming of public streets.

189. (1) The council shall give names to new public streets and may alter the name of any public street.

(2) The chairman shall cause to be put up or painted in English and in at least one vernacular language on a conspicuous part of some building, wall or place, at or near each end, corner or entrance the name of every public street.

(3) No person shall, without lawful authority, destroy, pull down, or deface any such name or put up any name different from that put up by order of the chairman.

Numbers on buildings.

Numbering of buildings.

190. (1) The chairman may cause a number to be affixed to the side or outer-door of any building or to some place at the entrance of the premises.

(2) No person shall without lawful authority destroy, pull down or deface any such number.

(3) When a number has been affixed under sub-section (1), the owner of the building shall be bound to maintain such number and to replace it if removed or defaced; and if he fails to do so, the chairman may by notice require him to replace it.

CHAPTER X.—BUILDING REGULATIONS.

General powers.

Building rules.

191. (1) The *Local Government* may make rules—

(*a*) for the regulation or restriction of the use of sites for building, and

(*b*) for the regulation or restriction of building.

(2) Without prejudice to the generality of the power conferred by sub-section (1), clause (*a*), rules made under that clause may provide—

(*a*) that no insanitary or dangerous site shall be used for building, and

(*b*) that no site shall be used for the construction of a building intended for public worship, if the construction of the building thereon will wound the religious feelings of any class of persons.

(3) Without prejudice to the generality of the power conferred by sub-section (1), clause (*b*), rules made under that clause may provide for the following matters:—

(*a*) information and plans to be submitted together with applications for permission to build;

(*b*) height of buildings, whether absolute or relative to the width of streets;

(*c*) level and width of foundation, level of lowest floor, and stability of structure;

(*d*) number and height of stories composing a building and height of rooms;

(*e*) provision of sufficient open space external or internal and adequate means of ventilation;

(*f*) provision of means of egress in case of fire;

(*g*) provision of secondary means of access for the removal of filth;

(*h*) materials and methods of construction of external and party walls, roofs and floors;

(*i*) position, materials and methods of construction of hearths, smoke-escapes, chimneys, staircases, latrines, drains, cess-pools;

(*j*) paving of yards;

(*k*) restrictions on the use of inflammable materials in building; and

(*l*) in the case of wells, the dimensions of the well, the manner of enclosing it, and if the well is intended for drinking purposes, the means which shall be used to prevent pollution of the water.

Building site and construction or re-construction of buildings.

192. No piece of land shall be used as a site for the construction of a building and no building shall be constructed or re-constructed otherwise than in accordance with the provisions of this part and of any rules or by-laws made under this Act relating to the use of building-sites or the construction or re-construction of buildings:

Provided that the *Local Government* may, in respect of all municipalities, or with the consent of the municipal council, in respect of any particular municipality or portion thereof, exempt all buildings or any class of buildings from all or any of the provisions of this chapter or the said rules.

Power of council to regulate future construction of certain classes of buildings in particular streets or localities.

193. (1) The council may give public notice of its intention to declare—

(*a*) that in any streets or portions of streets specified in the notice,

(i) continuous building will be allowed,

(ii) the elevation and construction of the frontage of all buildings thereafter constructed or re-constructed shall, in respect of their architectural features, be such as the council may consider suitable to the locality, or

(*b*) that in any localities specified in the notice, the construction of only detached buildings will be allowed, or

(*c*) that in any streets, portions of streets or localities specified in the notice, the construction of shops, warehouses, factories, huts, or buildings of a specified architectural character or buildings destined for particular uses will not be allowed, without the special permission of the council.

(2) No objections to any such declaration shall be received after a period of three months from the publication of such notice.

(3) The council shall consider all objections received within the said period and may then confirm the declaration, and before doing so, may modify it but not so as to extend its effect.

(4) The chairman shall publish any declaration so confirmed and it shall take effect from the date of publication.

(5) No person shall, after the date of publication of such declaration, construct or re-construct any buildings in contravention of any such declaration.

Buildings at corner of streets.

194. (1) The council may require any building intended to be erected at the corner of two streets to be rounded off or splayed off to such height and to such extent otherwise as it may determine, and may acquire such portion of the site at the corner as it may consider necessary for public convenience or amenity.

(2) For any land so acquired the municipal council shall pay compensation.

(3) In determining such compensation allowance shall be made for any benefit accruing to the same premises from the improvement of the streets.

Prohibition against use of inflammable materials for buildings without permission.

195. No external roof, veranda, pandal or wall of a building shall be constructed or re-constructed of grass, leaves, mats, or other inflammable materials except with the permission of the chairman.

Case Law : Sec. 195 :—When a person wants to put up roof, verandah or pandal or wall of a building of grass, leaves or mats or other inflammable materials he has to obtain permission of the chairman and if he does not obtain permission of the chairman he is liable to penalty under Sec. 313 but after he has once obtained permission to put up a structure of the kind mentioned in Section 195 he is not bound to obtain licence from year to year.

In construing a section like Section 195, the court is not entitled to travel outside the clear wording of the section and to introduce into it the word 'continuance.' 54 M.L.J. 642.

Prohibition against constructing doors, ground-floor, windows and bars so as to open outwards.

196. No door, gate, bar, or ground-floor window which opens on any public street shall be constructed or re-constructed so as to open outwards except with the chairman's licence under section 181.

Buildings other than huts.

Application to construct or re-construct building.

197. (1) If any person intends to construct or re-construct a building other than a hut he shall send to the chairman.

(*a*) an application in writing for the approval of the site, together with a site plan of the land, and

(*b*) an application in writing for permission to execute the work together with a ground-plan, elevations and sections of the building, and a specification of the work.

Explanation.—'Building' in this sub-section shall include a wall or fence of whatever height bounding or abutting on any public street.

(2) Every document furnished under sub-section (1) shall contain such particulars and be prepared in such manner as may be required under rules or by-laws.

NOTES. **Sec. 197** :—The explanation to this section has been introduced with a view to control the construction of walls or fences abutting on any public street irrespective of their height.

Necessity for prior approval of site.

198. The chairman shall not grant permission to construct or re-construct a building unless and until he has approved of the site on an application made under section 197.

Case Law: Sec. 198 :—The chairman is not empowered to grant permission to construct a building until the site has been approved. 32 L.W. 754.

Prohibition against commencement of work without permission.

199. The construction or re-construction of a building shall not be begun unless and until the chairman has granted permission for the execution of the work.

Case Law: Secs. 199, 317 and 338 :—The construction or re-construction of a work is not to be begun until the chairman has granted permission for the execution of the work, and commencing the construction without such permission is an offence falling under section 313 and not 338. 32 L.W. 754.

Period within which chairman is to signify approval or disapproval.

200. Within thirty days after the receipt of any application made under section 197 for approval of a site, or of any information or further information required under rules or by-laws, the chairman shall by written order either approve the site or refuse on one or more of the grounds mentioned in section 203 to approve the site.

Period within which chairman is to grant or refuse to grant permission to execute work.

201. Within thirty days after the receipt of any application made under section 197 for permission to execute any work or of any information or of documents or further information or documents required under rules or by-laws, the chairman shall by written order either grant such permission or refuse on one or more of the grounds mentioned in section 203 to grant it:

Provided that the said period of thirty days shall not begin to run until the site has been approved under section 200.

Reference to council if chairman delays grant or refusal of approval or permission.

202. (1) If, within the period prescribed by section 200 or section 201, as the case may be, the chairman has neither given nor refused his approval of a building site, or his permission to execute any work, as the case may be, the council shall be bound, on the written request of the applicant, to determine by written order whether such approval or permission should be given or not.

(2) If the council does not, within one month from the receipt of such written request, determine whether such approval or permission should be given or not, such approval or permission shall be deemed to have been given; and the applicant may proceed to execute the work, but not so as to contravene any of the provisions of this Act or any rules or by-laws made under this Act.

Grounds on which approval of site for, or licence to construct or re-construct building, may be refused.

203. The only grounds on which approval of a site for the construction or re-construction of a building or permission to construct or re-construct a building, may be refused, are the following, namely:—

(1) that the work, or use of the site for the work or any of the particulars comprised in the site plan, ground plan, elavations, sections or specification would contravene some specified provision of any law, or some specified order, rule, declaration or by-law made under any law;

(2) that the application for such permission does not contain the particulars or is not prepared in the manner required under rules or by-laws;

(3) that any of the documents referred to in section 197 have not been signed as required under rules or by-laws;

(4) that any information or documents required by the chairman under rules or by-laws has or have not been duly furnished;

(5) that streets or roads have not been made as required by section 175; or

(6) that the proposed building would be an encroachment upon Government or municipal land.

Whenever the chairman or the council refuses to approve a building-site for a building or to grant permission to construct or re-construct a building, the reasons for such refusal shall be specifically stated in the order or resolution.

Case Law : Sec. 203 :—The chairman or council of a municipality is entitled to refuse the approval of a particular site for the erection of a latrine on the ground that such erection would be insanitary. Rule (1) of the rules framed by the Local Government to the effect that " no piece of land shall be used as a building site, if the council considers that the site is insanitary or that it is dangerous to construct a building thereon " is general in language to apply to and prohibit the erection of buildings on lands considered insanitary or dangerous or both, where the insanitary or dangerous character applies to all kinds of buildings intended to be erected thereon. 32 L.W. 754.

Lapse of permission.

204. If the construction or re-construction of any building is not completed within the period specified the permission shall lapse and a fresh application shall be made before the work is continued.

Power of chairman to require alteration of work.

205. (1) If the chairman finds that the work—

(*a*) is otherwise than in accordance with the plans or specifications which have been approved, or

(*b*) contravenes any of the provisions of this Act or any by-law, rule, order or declaration made thereunder,

he may by notice require the owner of the building within a period stated either—

(i) to make such alterations as may be specified in the said notice with the object of bringing the work into conformity with the said plans or provisions, or

(ii) to show cause why such alterations should not be made.

(2) If the owner does not show cause as aforesaid, he shall be bound to make the alterations specified in such notice.

(3) If the owner shows cause as aforesaid, the chairman shall by an order cancel the notice issued under sub-section (1), or confirm the same subject to such modifications as he may think fit.

Case Law : Sec, 205 :—Where a municipality gives permission for a building in a particular place, it does not amount to permission to build in another place. The variation of the location is not a matter covered by this section. 32 L.W. 754.

Stoppage of work endangering human life.

206. Notwithstanding anything contained in any of the preceding sections, the chairman may at any time stop the construction or re-construction of any building if in his opinion the work in progress endangers human life.

Wells.

Application of certain sections to wells.

207. The provisions of section 197, section 198, section 199, section 204, section 205, and section 206 shall, so far as may be, apply to a well.

Huts

Application to construct or re-construct huts.

208. (1) Every person who intends to construct or reconstruct a hut shall send to the chairman.

(*a*) an application for permission to execute the work, and

(*b*) a site-plan of the land.

(2) Every such application and plan shall contain the particulars and be prepared in the manner required by rule or by-law.

Prohibition against commencement of work without permission.

209. The construction or re-construction of a hut shall not be begun unless and until the chairman has granted permission for the execution of the work on an application sent to him under section 208.

Period within which chairman is to grant or refuse to grant permission to execute the work.

210. Within fourteen days after the receipt of any application made under section 208 for permission to construct or re-construct a hut or of any information or plan or further information or fresh plan required under rules or by-laws, the chairman shall by written order either grant such permission or refuse on one or more of the grounds mentioned in section 212 to grant it.

Reference to council if chairman delays passing orders.

211. (1) If within the period prescribed by section 210, the chairman has neither granted nor refused to grant permission to construct or re-construct a hut, the council shall be bound, on the written request of the applicant, to determine by written order whether such permission should be granted or not.

(2) If the council does not, within thirty days from the receipt of such written request, determine whether such permission should be granted or not, such permission shall be deemed to have been granted; and the applicant may proceed to execute the work but not so as to contravene any of the provisions of this Act or any rules or by-laws made under this Act.

Grounds on which permission to construct or re-construct hut may be refused.

212. The only grounds on which permission to construct or re-construct a hut may be refused are the following, namely :—

(1) that the work or use of the site for the work would contravene some specified provision of any law or some specified order, rule, by-law or declaration, made under any law;

(2) that the application for permission does not contain the particulars or is not prepared in the manner required under rules or by-laws;

(3) that any information or plan required by the chairman under rules or by-laws has not been duly furnished;

(4) that streets or roads have not been made as required by section 175; or

(5) that the proposed building would be an encroachment upon Government or municipal land.

Whenever the chairman or the council refuses to grant permission to construct or re-construct a hut the reasons for such refusal shall be specifically stated in the order or resolution.

Lapse of permission

213. If the construction or re-construction of any hut is not completed within the period specified the permission shall lapse and a fresh application shall be made before the work is continued.

External walls, alterations and additions.

Maintenance of external walls in repair.

214. The owner or occupier of any building adjoining a public street shall keep the external part thereof in proper repair with lime-plaster or other material to the satisfaction of the chairman.

Application of provisions to alterations and additions.

215. (1) The provisions of this chapter and of any rules or by-laws made under this Act relating to construction and re-construction of buildings shall also be applicable to any alteration thereof or addition thereto:

Provided that works of necessary repair which do not affect the position or dimension of a building or any room therein shall not be deemed an alteration or addition for the purposes of this section.

(2) If any question arises as to whether any addition or alteration is a necessary repair not affecting the position or dimensions of a building or room such question shall be referred to the council whose decision shall be final.

Powers of the chairman.

Demolition or alteration of building work unlawfully commenced, carried on or completed.

216. (1) If the chairman is satisfied—

(i) that the construction of re-construction of any building or well—

(a) has been commenced without obtaining the permission of the chairman or (where an appeal or reference has been made to the council, in contravention of any order passed by the council, or

(b) is being carried on, or has been completed otherwise than in accordance with the plans or particulars on which such permission or order was based, or

(c) is being carried on, or has been completed in breach of any of the provisions of this Act or of any rule or by-law made under this Act or of any direction or requisition lawfully given or made under this Act or such rules or by-laws, or

(ii) that any alterations required by any notice issued under section 205 have not been duly made, or

(iii) that any alteration of or addition to any building or any other work made or done for any purpose in, to or upon any building, has been commenced or is being carried on or has been completed in breach of section 215,

he may make a provisional order requiring the owner or the builder to demolish the work done, or so much of it as, in the opinion of the chairman, has been unlawfully executed, or to make such alterations as may in the opinion of the chairman be necessary to bring the work into conformity with the Act, by-laws, rules, direction or requisition as aforesaid, or with the plans and particulars on which such permission or order was based; and may also direct that until the said order is complied with the owner or builder shall refrain from proceeding with the building or well.

(2) The chairman shall serve a copy of the provisional order made under sub-section (1) on the owner of the building or well together with a notice requiring him to show cause within a reasonable time to be named in such notice, why the order should not be confirmed.

(3) If the owner fails to show cause to the satisfaction of the chairman, the chairman may confirm the order with any modification he may think fit to make, and such order shall then be binding on the owner.

Exemptions.

Exemptions.

217. (1) Any building constructed and used, or intended to be constructed and used, exclusively for the purpose of a plant-house, summer-house (not being a dwelling-house), poultry-house or aviary, shall be exempted from the provisions of this chapter other than section 196 provided the building be wholly detached from, and situated at a distance of at least ten feet from, the nearest adjacent building.

(2) The chairman may grant permission at his discretion on such terms as he may decide in each case to erect for a specified period temporary huts or sheds for stabling, for watching crops, for storing tools or materials, or for other similar purposes. On expiry of the period specified, the chairman may by notice require the owner of such hut or shed to demolish it.

CHAPTER XI.—NUISANCES.

Dangerous structures, trees and places.

Precautions in case of dangerous structures.

218. (1) If any structure appears to the chairman to be in a ruinous state and dangerous to the passers-by or to the occupiers of neighbouring structures the chairman may by notice require the owner or occupier to fence off, take down, secure or repair such structure so as to prevent any danger therefrom.

(2) If immediate action is necessary the chairman shall himself before giving such notice or before the period of such notice expires, fence off, take down, secure or repair such structure or fence off a part of any street or take such temporary measures as he thinks fit to prevent danger and the cost of doing so shall be recoverable from the owner or occupier in the manner provided in section 344.

(3) If in the chairman's opinion the said structure is imminently dangerous to the inmates thereof, the chairman shall order the immediate evacuation thereof and any person disobeying may be removed by any police officer.

Precautions in case of dangerous trees.

219. (1) If any tree or any branch of a tree or the fruit of any tree appears to the chairman to be likely to fall and thereby endanger any person or any structure the chairman may by notice require the owner of the said tree to secure, lop, or cut down the said tree so as to prevent any danger therefrom.

(2) If immediate action is necessary the chairman shall himself before giving such notice or before the period of such notice expires, secure, lop or cut down the said tree or remove the fruit thereof or fence off a part of any street or take such other temporary measures as he thinks fit to prevent danger, and the cost of so doing shall be recoverable from the owner of the tree in the manner provided in section 344.

Precautions in case of dangerous tanks, wells, holes, etc.

220. (1) If any tank, pond, well, hole, stream, dam, bank or other place appears to the chairman to be for want of sufficient repair, protection or enclosure dangerous to the passers-by or to persons living in the neighbourhood, the chairman may by notice require the owner to fill in, remove, repair, protect or enclose the same so as to prevent any danger therefrom.

(2) If immediate action is necessary he shall before giving such notice or before the period of notice expires, himself take such temporary measures as he thinks fit to prevent danger and the cost of doing so shall be recoverable from the owner in the manner provided in section 344.

Power to stop dangerous quarrying.

221. If in the opinion of the chairman the working of any quarry or the removal of stone, earth or other material from any place is dangerous to persons residing in or having legal access to the neighbourhood thereof or creates or is likely to create a nuisance the chairman may require the owner or person having control of the said quarry or place to discontinue working the same or to discontinue removing stone, earth or other material from such place or to take such order with such quarry or place as he shall deem necessary for the purpose of preventing danger or of abating the nuisance arising or likely to arise therefrom.

Precautions against fire.

222. (1) The chairman may by notice require the owner of any structure, booth or tent partly or entirely composed of, or having any external roof, verandah, pandal or wall partly or entirely composed of cloth, grass, leaves, mats, or other highly inflammable materials to remove or alter

such tent, booth, structure, roof, verandah, pandal or wall, or may grant him permission to retain the same on such conditions as the chairman may think necessary to prevent danger from fire.

(2) The chairman may by notice require any person using any place for the storage for private use of timber, firewood, or other combustible things to take special steps to guard against danger from fire.

(3) Where the chairman is of opinion that the means of egress from any building are insufficient to allow of safe exit in the event of fire, he may with the sanction of the council by notice require the owner or occupier of the building to alter or reconstruct any staircase in such manner or to provide such additional or emergency staircases as he may direct; and when any building, booth or tent is used for purposes of public entertainment he may require, subject to such sanction as aforesaid, that it shall be provided with an adequate number of clearly indicated exits so placed and maintained as readily to afford the audience ample means of safe egress, that the seating be so arranged as not to interfere with free access to the exits and that gangways, passages and stair cases leading to the exits shall during the presence of the public be kept clear of obstructions.

Control over waters, etc.

Prohibition of construction of wells, tanks, etc., without the chairman's permission.

223. (1) No new well, tank, pond, cistern, fountain or the like shall be dug or constructed without the permission of the chairman.

(2) The chairman may grant permission subject to such conditions as he may deem necessary, or may, for reasons to be recorded by him, refuse it.

(3) If any such work is begun or completed without such permission, the chairman may either—

(*a*) by notice require the owner or other person who has done such work to fill up or demolish such work in such manner as the chairman shall direct, or

(*b*) grant permission to retain such work, but such permission shall not exempt such owner from proceedings for contravening the provisions of sub-section (1).

Filling in of pools, etc., which are a nuisance.

224. (1) If in the opinion of the chairman—

(*a*) any pool, ditch, tank, well, pond, bog, swamp, quarry-hole drain, cess-pool, pit, water-course, or any collection of water, or

(*b*) any land on which water may at any time accumulate

is or is likely to become a breeding-place of mosquitoes or in any other respect a nuisance the chairman may by notice require the owner or person having control thereof to fill up, cover over, weed and stock

with larvicidal fish, petrolize, drain or drain off the same in such manner and with such materials as the chairman shall direct or to take such order with the same for removing or abating the nuisance as the chairman shall direct.

(2) If a person on whom a requisition is made under-sub-section (1) to fill up, cover over, or drain off a well, delivers to the chairman within the time specified for compliance therewith written objections to such requisition, the chairman shall report such objections to the council, and shall make further inquiry into the case, and he shall not institute any prosecution for failure to comply with such requisition except with the approval of the council, but the chairman may nevertheless, if he deems the execution of the work called for by such requisition to be of urgent importance, proceed in accordance with section 339 and, pending the council's disposal of the question whether the said well shall be permanently filled up, covered over, or otherwise dealt with, may cause such well to be securely covered over so as to prevent the ingress of mosquitoes, and in every such case the chairman shall determine with the approval of the council whether the expenses of any work already done as aforesaid shall be paid by such owner or by the chairman out of the municipal fund or shall be shared, and, if so, in what proportions.

Regulation or prohibition of certain kinds of cultivation.

225. The council on the report of the *Director of Public Health*, the Health Officer or the Local Medical Officer that the cultivation of any description of crop, or the use of any kind of manure, or the irrigation of land in any place within the limits of the municipality is injurious to the public health may, with the previous sanction of the *Local Government*, by public notice regulate or prohibit the cultivation, use of manure, or irrigation so reported to be injurious:

Provided that when such cultivation, or irrigation has been practised during the five years preceding the date of such public notice with such continuity as the ordinary course of husbandry admits of, compensation shall be paid from the municipal fund to all persons interested for any damage caused to them by absolute prohibition.

Cleansing of insanitary private tank or well used for drinking.

226. (1) The chairman may by notice require the owner of or person having control over any private water-course, spring, tank, well or other place, the water of which is used for drinking, bathing or washing clothes to keep the same in good repair and to cleanse it of silt, refuse or vegetation and to protect it from pollution by surface drainage in such manner as the chairman may think fit.

(2) If the water of any place which is used for drinking, bathing or washing clothes, as the case may be, is proved to the satisfaction of the chairman to be unfit for the purpose, the chairman may by notice require the owner or person having control thereof to—

(*a*) refrain from using or permitting the use of such water; or

(*b*) close or fill up such place or enclose it with a substantial wall or fence.

Duty of council in respect of public well or receptacle of stagnant water.

227. The municipal council shall maintain in a cleanly condition all wells, tanks and reservoirs which are not private property, and may fill them up or drain them when it appears necessary to do so.

Public wells etc., open to all.

227-A,* All such wells, tanks and reservoirs when maintained by the municipal council shall be open to use and enjoyment by persons of whatever caste or creed.

Prohibition against or regulation of washing animals or clothes or fishing or drinking in public water-courses, tanks, etc.

228. The council may, in the interests of the public health, regulate or prohibit the washing of animals, clothes, or other things, or fishing in any public spring, tank, well, public water-course or part thereof within the municipality and may set apart any such place for drinking or for bathing or for washing clothes, or animals, respectively, or for any other specified purpose.

Provision of public wash-houses.

229. (1) The council may construct or provide and maintain public wash-houses or places for the washing of clothes, and may require the payment of such rents and fees for the use of any such wash-house or place as it may determine.

(2) The council may farm out the collection of such rents and fees for any period not exceeding three years at a time on such terms and conditions as it may think fit.

(3) If a sufficient number of public wash-houses or places be not maintained under sub-section (1), the council may without making any charge therefor appoint suitable places for the exercise by washermen of their calling.

Prohibition against washing by washermen at unauthorized places.

230. (1) The council may by public notice prohibit the washing of clothes by washermen in the exercise of their calling, either within the municipality or outside the municipality within three miles of the boundary thereof, except at—

(*a*) public wash-houses or places maintained or provided under section 229 or

(*b*) such other places as it may appoint for the purpose.

(2) When any such prohibition has been made no person who is by calling a washerman shall, in contravention of such prohibition, wash clothes, except for himself or for personal and family service or for hire on and within the premises of the hirer, at any place within or without

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* Added by Act XVII of 1929.

municipal limits other than a public wash-house or a place maintained or appointed under this Act:

Provided that this section shall apply only to clothes washed within or to be brought within the municipality.

Prohibition against defiling water of tanks, etc., whether public or private.

231. It shall not be lawful for any person to—

(*a*) bathe in or in any manner defile the water in any place set apart by the council or by the owner thereof for drinking purposes; or

(*b*) deposit any offensive or deleterious matter in the dry bed of any place set apart as aforesaid for drinking purposes; or

(*c*) wash clothes in any place set apart as aforesaid for drinking or bathing; or

(*d*) wash any animal or any cooking utensil or wool, skins or other foul or offensive substance or deposit any offensive or deleterious matter in any place set apart as aforesaid for bathing or washing clothes; or

(*e*) cause or suffer to drain into or upon any place set apart as aforesaid for drinking, bathing or washing clothes, or cause or suffer anything to be brought thereinto or do anything whereby the water may be fouled or corrupted.

Control over abandoned lands, untrimmed hedges, etc.

Untenanted buildings or lands.

232. If any building or land, by reason of abandonment, disputed ownership or other cause remains untenanted, and thereby becomes a resort of idle and disorderly persons or in the opinion of the chairman becomes a nuisance, the chairman may after due inquiry by notice require the owner or person claiming to be the owner to secure, enclose, clear or cleanse the same.

Removal of filth or noxious vegetation.

233. The chairman may by notice require the owner or occupier of any building or land which appears to him to be in a filthy or unwholesome state, or overgrown with any thick or noxious vegetation, trees or undergrowth injurious to health or offensive to the neighbourhood, to clear, cleanse or otherwise put the land in proper state or to clear away and remove such vegetation, trees or undergrowth within twenty-four hours or such longer period and in such manner as may be specified in the notice.

Fencing of buildings or lands and pruning of hedges and trees.

234. The chairman may by notice requiret he owner or occupier of any building or land near a public street to—

(*a*) fence the same to the satisfaction of the chairman; or

(*b*) trim or prune any hedges bordering on the said street so that they may not exceed such height from the level of the adjoining roadway as the chairman may determine; or

(*c*) cut and trim any hedges or trees overhanging the said street and obstructing it or the view of traffic or causing it damage; or

(*d*) lower an enclosing wall or fence which by reason of its height and situation obstructs the view of traffic so as to cause danger.

Control over insanitary buildings.

Lime-washing and cleansing of buildings.

235. The chairman, if it appears to him necessary for sanitary purposes so to do, may by notice require the owner or occupier of any building to lime-wash or otherwise cleanse the building inside and outside in the manner and within a period to be specified in the *notice.*

NOTES:—**Sec. 235.** The word 'notice' occurring at the end of the section has been substituted for the word 'order' which was obviously a mistake for 'notice' as seen from the earlier portion of the section where the word used is 'notice'.

Further powers with reference to insanitary buildings.

236. (1) Whenever the chairman considers—

(*a*) that any building or portion thereof is, by reason of its having no plinth or having a plinth of insufficient height, or by reason of the want of proper drainage or ventilation or by reason of the impracticability of cleansing, attended with danger of disease to the occupiers thereof or to the inhabitants of the neighbourhood, or is, for any reason, likely to endanger the public health or safety, or

(*b*) that a block or group of buildings is, for any of the said reasons, or by reason of the manner in which the buildings are crowded together, attended with such risk as aforesaid, he may by notice require the owners or occupiers of such buildings or portions of buildings or at his option, the owners of the land occupied by such buildings or portions of buildings, to execute such works or to take such measures as he may deem necessary for the prevention of such danger.

(2) No person shall be entitled to compensation for damages sustained by reason of any action taken under or in pursuance of this section save when a building is demolished in pursuance of an order made hereunder, or so far demolished as to require reconstruction, in which cases the municipal council shall make compensation to the owner thereof.

(3) When any building is entirely demolished under this section and the demolition thereof adds to the value of other buildings in the immediate vicinity, the owners of such other buildings shall be bound to contribute towards the compensation payable to the owner of the

first-named building in proportion to the increased value acquired by their own property.

(4) When any building is so far demolished under this section as to require reconstruction, allowance shall be made in determining the compensation for the benefit accruing to the premises from the improvement thereof.

Buildings unfit for human habitation.

237. (1) If any building or portion thereof intended for or used as a dwelling-place appears to the chairman to be unfit for human habitation, he may apply to the council to prohibit the further use of such structure for such purpose; and the council may, after giving the owner and occupiers of the structure a reasonable opportunity of showing cause why such order should not be made, make a prohibitory order as aforesaid.

(2) When any such prohibitory order has been made, the chairman shall communicate the purport thereof to the owner and occupiers of the structure and on expiry of such period as is specified in the notice, not being less than thirty days after the service of the notice, no owner or occupier of such structure shall use or suffer it to be used for human habitation until the chairman certifies in writing that the causes rendering it unfit for human habitation have been removed to his satisfaction, or the council withdraws the prohibition.

(3) When such prohibitory order has remained in operation for three months the chairman shall report the case to the council, which shall thereupon consider whether the structure should not be demolished. The council shall give the owner not less than thirty days' notice of the time and place at which the question will be considered and the owner shall be entitled to be heard when the question is taken into consideration.

4) If upon such consideration the council is of opinion that the structure has not been rendered fit for human habitation and that steps are not being taken with due deligence to render it so fit and that the continuance of the structure is a nuisance or dangerous or injurious to the health of the public or to the inhabitants of the neighbourhood, it shall record a decision to that effect, with the grounds of the decision, and the chairman shall in pursuance of the said decision by notice require the owner to demolish the structure.

(5) If the owner undertakes to execute forthwith the works necessary to render the structure fit for human habitation and the chairman considers that it can be so made fit, the chairman may postpone the execution of the decision of the council for such time not exceeding six months as he thinks sufficient for the purpose of giving the owner an opportunity of executing the necessary works.

Abatement of over-crowding in dwelling-house or dwelling-place.

238. (1) If it appears to the chairman that any dwelling-house or other building which is used as a dwelling-place, or any room in such dwelling-house or building, is so over-crowded as to endanger the health of the inmates thereof, he may apply to a magistrate to abate such over-crowding; and the magistrate, after such inquiry as he thinks fit to make, may, by written order, require the owner of the building, or room, within a reasonable time not exceeding four weeks to be specified in the said order, to abate such over-crowding by reducing the number of lodgers, tenants or other inmates of the building or room, or may pass such other order as he may deem just and proper.

(2) The council may, by written order, declare what amount of superficial and cubic space shall be deemed for the purposes of sub-section (1) to be necessary for each occupant of a building or room.

(3) If any building or room referred to in sub-section (1) has been sublet, the landlord of the lodgers, tenants, or other actual inmates of the same, shall, for the purposes of this section, be deemed to be the owner of the building or room.

(4) It shall be incumbent on every tenant, lodger or other inmate of a building or room to vacate on being required by the owner so to do, in pursuance of any requisition made under sub-section (1).

Control over certain animals.

Prohibition against feeding certain animals on filth.

239. No person shall feed or permit any animal, which is kept for dairy purpose or may be used for food, to be fed on filth.

Prohibition against keeping animal so as to be a nuisance or dangerous.

240. No person shall keep any animal on his premises so as to be a nuisance or so as to be dangerous.

Power to destroy stray pigs and dogs.

241. (1) The council may, and, if so directed by the district magistrate, shall give public notice that unlicensed pigs or dogs straying within specified limits will be destroyed.

(2) When such notice has been given any person may destroy, in any manner not inconsistent with the terms of the notice, any unlicensed pig or dog (as the case may be) found straying within such limits.

General.

Power of chairman to use or sell materials of dangerous structure taken down, etc., and procedure when there is no owner or occupier.

242. (1) When the chairman takes down any structure or part thereof or cuts down any tree or hedge or shrub or part thereof or removes any fruit in virtue of his powers under this chapter, the chairman may sell the materials or things taken down, cut down or removed, and apply the proceeds in or towards payment of the expenses incurred.

(2) If after reasonable inquiry it appears to the chairman that there is no owner or occupier to whom notice can be given under any section in this chapter he may himself take such order with the property mentioned in such section as may appear to him to be necessary and may recover the expense incurred by the sale of such property (not being land) or of any portion thereof.

Limitation of compensation.

243. No person shall be entitled save as provided in sections 224, 225 and 236 to compensation for any damages sustained by reason of any action taken by the municipal authorities in pursuance of their powers under this chapter.

CHAPTER XII.—LICENCES AND FEES.

General Provision as to Licences.

Exemption of Government from taking out licence.

244. Nothing in this chapter shall be construed as requiring the Government of India or the Local Government to take out a licence in respect of any place in the occupation or under the control of or any property belonging to such Government.

Keeping of animals.

Licences for places in which animals are kept.

245. (1) The owner or occupier of any stable, veterinary infirmary, stand, shed, yard, or other place in which quadrupeds are kept or taken in for purposes of profit, shall, in the first month of every year, or in the case of a place to be newly opened, within one month before the opening of such place, apply to the chairman for a licence for the use of the same for any such purpose of profit.

(2) The chairman may, by an order and under such restrictions and regulations as he thinks fit, grant or refuse to grant such licence:

Provided that this section shall not apply to any such place licensed as a place of public entertainment or resort under the Places of Public Resort Act, 1888.

(3) No person shall without or otherwise than in conformity with a licence use any place for such a purpose.

General powers of control over stables, cattle-sheds and cow-houses.

246. (1) All stables, cattle-sheds and cow-houses shall be under the survey and control of the chairman as regards their site, construction, materials, and dimensions.

(2) The chairman may by notice require that any stable, cattle-shed or cow-house be altered, paved, drained, repaired, disinfected or kept in such a state as to admit of its being sufficiently cleaned or be supplied with water, or be connected with a sewer or be demolished.

(3) Every such notice shall be addressed to the owner of the building or land to which the stable, cattle-shed or cow-house belongs, or for the use of the occupants of which the same was constructed or is continued.

(4) The expense of executing any work in pursuance of any such notice shall be borne by the said owner.

Power to direct discontinuance of use of buildings as stable, cattle-shed or cow-house.

247. If any stable, cattle-shed or cow-house is not constructed or maintained in the manner required by or under this Act, the chairman may by notice direct that the same shall no longer be used as a stable, cattle-shed or cow-house. Every such notice shall state the grounds on which it proceeds.

248. [*Omitted*].

Industries and Factories.

Purposes for which places may not be used without licence.

249. (1) The council may publish a notification in the district gazette and by beat of drum that no place within municipal limits or at a distance within three miles of such limits shall be used for any one or more of the purposes specified in Schedule V without the chairman's licence and except in accordance with the conditions specified therein.

Provided that no such notification shall take effect

(*a*) *until sixty days from the date of publication and*

(*b*) *except with the previous sanction of the Local Government in any area outside the municipal limits.*

(2) The owner or occupier of every such place shall within 30 days of the publication of such notification apply to the chairman for a licence for the use of such place for such purpose.

(3) The chairman may, by an order and under such restrictions and regulations as he thinks fit, grant or refuse to grant such licence.

(4) Every such licence shall expire at the end of the year unless for special reasons the chairman considers it should expire at an earlier date;
when it shall expire at such earlier date as may be specified therein.

(5) Applications for renewal of such licences shall be made not less than 30 days before the end of every year and applications for licences for places to be newly opened shall be made not less than 30 days before they are opened.

NOTES:—**Sec. 249.** The proviso (b) to sub-section (1) is added with a view to prevent conflict of jurisdiction between municipal councils and local boards in the area within three miles of the municipal limits.

Case Law:—Section 249 of District Municipalities Act V of 1920 has not been repealed by section 193 of the Madras Local Boards Act IV of 1920.

For one statute to cancel another they must be mutually destructive. A rice mill is a machinery likely to be dangerous to human life within the terms of schedule V (q) of the Act and the use of the same without a licence is punishable under Secs. 249 and 338 of the Act. 52 M.L.J. 653=25 L.W. 768=A.I.R. (1927) M. 602.

A municipal council resolved to require wholesale dealers in grain to take out licences under section 249 of the District Municipalities Act and accordingly published a notification under section 328 in the gazette. The term "grain" in schedule V clause (a) of the District Municipalities Act does not include rice or broken rice and consequently no licence was necessary in respect of godowns in which rice and broken rice were stored for wholesale trade.

The meaning of the word "Grain" was brought out in a case that went up to the House of Lords and is reported in *Cotton* v. *Vogan and Co.*, (1896) A.C. 457. Lord HERCHELL in interpreting the meaning of the words which occur in the Metage on grain Port of London Act of 1872 "in respect of all grains brought into the port of London for sale" observed "if the legislature had intended to include what had always been regarded and treated as manufactured articles such as flour and meal as distinguished from the natural products of the earth untreated except by gathering, the language would have been altogether different". 51 M.L.J. 62=23 L.W. 31=A.I.R. (1926) M. 251.

Case Law: 249 and 250:—The object and scope of sections 249 and 250 are entirely different. Section 249 contemplates an annual payment for the use of the machinery whereas section 250 contemplates a payment once for all for installing it. (50 M.L.J. 384 DISSENTED from; 45 M.L.J. 731 REFERRED to;) 51 M.L.J. 499=A.I.R. (1926) M. 1131.

Section 249 is much wider than section 250; for it purports to deal with "any place" which is used for any one or more of the purposes specified in Sch. V and the word "place" certainly includes a factory or workshop, for Sch. V undoubtedly includes some factories. The word "place" therefore must be taken to include not only a factory, workshop or work place as mentioned in Sec. 250 Cl. 1 (a) but any other place used for the purposes mentioned in schedule V. Section 250 applies only to factories, workshops or workplaces in which it is proposed to employ steam-power, water-power, or other mechanical power or electrical-power or places in which any machinery or manufacturing plant driven by steam, water or other power is installed. The places referred to in Sec. 250 are those of a more important character and before any person can construct or establish any such factory he is bound to get the permission of the council to do so. That permission is given solely for the construction establishment or installation, as is also apparent from Cl. (5) of the section which says that the provisions of Sec 197 dealing with new buildings shall not be deemed to be dispensed with. Sec. 250 does not deal with the use of such places but only with their inception. When the owner wishes to use them and they are such as come within Sch. V Cl. (q) Sec. 249 becomes applicable and the owner must take out an annual licence from the chairman of the council. 53 M.L.J. 633 (F.B.)=27 L.W. 239.

The Act clearly intends to draw a distinction between what it describes as "industries" and "factories". The former are dealt with in section 249 and the latter in section 250. The industries included in section 249 and schedule 5 are licensed by the chairman subject to the control of the council.

The power factories referred to in section 250 are regulated by the council itself subject to the orders of the Governor-in-Council.

The Madura municipal council gave permission under section 250 of the Act for erection of a ricehulling machine worked by a 22 horse-power gas engine. The respondent was charged under sections 249 and 338 of the Act for refusing to take out an annual licence under section 249 of the Act. *Held* an annual licence under section 249 is not necessary and the prosecution cannot stand.

The machinery referred to in schedule V is machinery of a kind that is propelled by means other than those described in section 250 which contemplates some sort of mechanical motive power. The machinery must be such as is likely to be dangerous to human life, health or property (45 M.L.J. 555 partly APPROVED and partly DISSENTED from.) 50 M.L.J. 384=A.I.R. (1926) M. 576.

Sec. 249 (5) :—With regard to the opening of new places, section 249 requires that applications should be made 30 days before they are opened so as to enable the municipal authorities to satisfy themselves that the new places to be opened would not affect the health or convenience of the neighbourhood. But when it is a question of renewal of licence, though the section speaks of 30 days there is no bar to the issue of a licence by reason of the applications not having been made not less than 30 days before the end of the year. The provision should not be understood as if it is one of the articles of the Limitation Act standing in the way of the chairman granting a licence. 55 M.L.J. 495.

Secs. 249, 321, & 338 :—A licence which has been granted under the District Municipalities Act, by the chairman of the municipality cannot be cancelled for any reason other than for violation of any of the conditions or the terms of the licence. The chairman can cancel the licence under the section 321 (5) only for the contraven tion of any of its terms, and it is not open to him to cancel the licence for any reason that he thinks proper. Therefore the cancellation of a licence for not paying the water tax due to the municipality is not a ground for cancelling the licence to carry on the business of a coffee-hotel keeper, and is *ultra vires* of the powers of the chairman. It is open to the court to go into that question in a prosecution launched by the municipality under section 338. 55 M.L.J. 566.

The accused was convicted for storing and selling grain wholesale with out the licence of the municipal chairman under sections 249 & 338 (b) of Act V of 1920. The question was whether there was a valid notification under Section 249 making it obligatory on the accused to obtain one. The notification was issued by the municipal council constituted under the repealed Act-IV of 1884 purporting to act under section 249 of Act V of 1920.

Held that the notification was invalid as the muncipal council purported to act before the new Act came into force.

In the absence of a definition of "Wholesale" in the act, the meaning of that expression in common parlance must be decisive. 42 M.L.J. 149=A.I.R. (1921) M. 713.

Secs. 249 & 365:—A notification under section 249 is not a rule because under section 303 (1) rules can be made only by the Governor-in-Council; it is not a by-law because if its subject matter can be identified with any of those enumerated in section 306, it was not published or confirmed in the manner prescribed in sections 309 & 310 and it is not a regulation because section 312 providing only for the manner in which regulations may be published, power to make them is conferred on the municipal council not generally but only in connection with certain specified provisions, *see* for instance secs. 25 & 130 in which section 249 (1) is not included. 42 M.L:J. 149=A.I.R. (1921) M. 713.

Application to be made for construction, establishment or installation of factory, workshop or workplace in which steam or other power is to be employed.

250. (1) Every person intending

(*a*) to construct or establish any factory, workshop or work-place in which it is proposed to employ steam-power, water-power or other mechanical power or electrical power, or

(*b*) to instal in any premises any machinery or manufacturing plant driven by steam, water or other power as aforesaid

shall, before beginning such construction, establishment or installation, make an application in writing to the municipal council for permission to undertake the intended work.

(2) *The application shall be accompanied by—*

(*i*) *a plan of the factory, workshop, work-place or premises prepared in such manner as may be prescribed by rules made in this behalf by the Local Government, and*

(*ii*) *such particulars as to the power, machinery, plant or premises as the municipal council may require by by-laws made in this behalf.*

(3) The municipal council shall, as soon as may be after the receipt of the application,

(*a*) grant the permission applied for, either absolutely or subject to such conditions as it thinks fit to impose, or

(*b*) refuse permission, if it is of opinion that such construction establishment or installation is objectionable by reason of the density of the population in the neighbourhood or that it is likely to cause a nuisance.

(4) *Before granting permission under sub-section (3) the municipal council—*

(*a*) *shall obtain the approval of the inspector of factories appointed under the Indian Factories Act, 1911, having jurisdiction in the area of the municipality, or if there is more than one such inspector, of the inspector designated by the Local Government in this behalf by general or special order, as regards the plan of the factory, workshop, work-place or premises with reference to—*

(*i*) *the adequacy of the provision for ventilation and light,*

(*ii*) *the sufficiency of the height and dimensions of the rooms and doors,*

(*iii*) *the suitability of the exits to be used in case of fire, and*

(*iv*) *such other matters as may be prescribed by rules made by the Local Government; and*

(*b*) *shall consult and have due regard to the opinion of the municipal health officer where the municipal council employs such an officer and of the district medical officer in other cases, as regards the suitability of the site of the factory, workshop, work-place or premises for the purpose specified in the application.*

(5) The grant of permission under this section shall not be deemed to dispense with the necessity for compliance with the provisions of *sections 197 and 199 or sections 208 and 209, as the case may be.*

*NOTES : **Sec. 250** :—Under Act V of 1920, if the municipal council did not pass order on an application under the section within three months of the receipt of the same, it should be deemed that the permission has been granted. The amending Act omits that provision and so the construction etc. cannot be made till the permission is expressly granted.

Sub-section (2) as amended says that a plan of the factory etc. should be sent with the application. Sub-section (4) is a new provision by which the approval of the Inspector of Factories is to be obtained, and the health officer or the district medical officer where there is no health officer is duly consulted, and the opinion given due regard before the permission is granted by the council.

Case-Law : Sec. 250 (1) (b) :—It cannot be said as a general proposition that any new machine brought into the premises, where there is already existing some machinery, will not, by reason of its being so brought in, amount to installing machinery. The question for consideration will be whether the machinery has been only replaced or it has been re-constructed. 3 M.Cr.C. 330

Council may issue directions for abatement of nuisance caused by steam or other power.

251. (1) If, in any factory, work-shop or work-place in which steam-power, water-power or other mechanical power or electrical power is used, nuisance is in the opinion of the municipal council caused by reason of the particular kind of fuel employed or by reason of the noise or vibration created, the municipal council may issue such directions as it thinks fit for the abatement of the nuisance within a reasonable time to be specified for the purpose.

(2) If there has been wilful default in carrying out such directions or if abatement is found impracticable, the municipal council may

(*a*) prohibit the use of the particular kind of fuel employed, or

(*b*) restrict the noise or vibration by prohibiting the working of the factory, work-shop or work-place between the hours of 9-30 p.m. and 5-30 a.m.

Power of the Local Government to pass orders or give directions to municipal councils.

252. The *Local Government* may, either generally or in any particular case, make such order or give such directions as *they* may deem fit in respect of any action taken *or omitted to be taken* under section 250 or section 251.

The chairman may enter any factory work-shop or work-place.

253. (1) The chairman or any person authorized by him in this behalf may enter any factory, work-shop or work-place—

(*a*) at any time between sunrise and sunset ;

(*b*) at any time when any industry is being carried on ; and

(*c*) at any time by day or by night, if he has reason to believe that any offence is being committed under section 250 or section 251.

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*As for the case law, see section 249.

(2) No claim shall lie against any person for any damage or inconvenience necessarily caused by the exercise of powers under this section or by the use of any force necessary for the purpose of effecting an entrance under this section.

Slaughtering.

Provision of municipal slaughter-houses.

254. (1) The municipal council shall provide a sufficient number of places for use as municipal slaughter-houses and may charge rents and fees for their use.

(2) The council may farm out the collection of such rents and fees for any period not exceeding three years at a time and on such terms and conditions as it may think fit.

(3) Municipal slaughter-houses may be situated within, or with the sanction of the *Local Government*, without the municipality.

Licence for slaughter-houses.

255. (1) The owner of any place *within municipal limits or at a distance within three miles of such limits* which is used as a slaughter-house for the slaughtering of animals or for the skinning or cutting up of any carcasses, shall in the first month of every year or, in the case of a place to be newly opened, one month before the opening of the same, apply to the chairman for a licence.

Provided that this sub-section shall not take effect in any area outside the municipal limits except with the previous sanction of the Local Government.

(2) The chairman may by an order and subject to such restrictions and regulations as to supervision and inspection as he thinks fit, grant or refuse to grant such licence.

NOTES : **Sec. 255** :—The proviso to sub-section (1) has been newly added to prevent conflict of jurisdiction between municipal councils and local boards in the area within three miles of municipal limits as in the case of section 249 proviso (b) to sub-section (1).

Slaughter of animals during festivals and ceremonies.

256. The chairman may allow any animal to be slaughtered in such places as he thinks fit on occasions of festivals and ceremonies or as a special measure.

Slaughter of animals for sale as food.

257. No person shall slaughter within the municipality, except in a public or licensed slaughter-house, any cattle, horse, sheep, goat or pig for sale as food or skin or cut up any carcass without or otherwise than in conformity with a licence from the chairman, or dry or permit to be dried any skin in such a manner as to cause a nuisance:

Provided that the chairman may authorize any person to slaughter, without licence and without the payment of any fee, any animal for the purpose of a religious ceremony.

The milk trade.

Regulation of milk trade.

258. (1) No person shall without or otherwise than in conformity with a licence from the chairman—

(*a*) carry on within the municipality the trade or business of a dealer in or importer or seller or hawker of milk or dairy-produce;

(*b*) use any place in the municipality for the sale of milk or dairy-produce:

Provided that no such licence shall be given to any person who is suffering from a dangerous disease.

(2) Such licence may be refused or may be granted on such conditions as the chairman may deem necessary which may extend to the construction, ventilation, conservancy, supervision and inspection of the premises, whether within or without municipal limits, where the animals from which the milk-supply is derived are kept.

Markets, butchers, fishmongers, hawkers.

Public markets.

259. All markets which are *acquired,* constructed, repaired or maintained out of the municipal fund shall be deemed to be public markets; and such markets shall be open to persons of whatever caste or creed.

NOTES: **Sec. 259**:—The words "and such markets shall be open to persons of whatever caste or creed" have been added to the section by Madras Act XVII of 1929.

Powers in respect of public markets.

260. (1) The council may provide places for use as public markets.

(2) *The council may in any public market levy any one or more of the following fees at such rates and may place the collection of such fees under the management of such persons, as may appear to it proper or may farm out such fees on such terms and subject to such conditions as it may deem fit:—*

(*a*) *fees for the use of, or for the right to expose goods for sale in, such markets;*

(*b*) *fees for the use of shops, stalls, pens or stands in such markets;*

(*c*) *fees on vehicles or pack-animals carrying, or on persons bringing, goods for sale in such markets;*

(*d*) *fees on animals brought for sale into, or sold in, such markets; and*

(*e*) *licence fees on brokers, commission agents, weighmen and measurers practising their calling in such markets.*

(3) The council may, with the sanction of the *Local Government,* close any public market or part thereof.

Chairman's control over public markets.

261. (1) No person shall, without the permission of the chairman, or if the *fees* have been farmed out, of the farmer, sell or expose for sale any animal or article within any public market.

(2) The chairman may expel from any public market any person who or whose servant has been convicted of disobeying any by-laws at the time in force in such market and may prevent such person from further carrying on by himself or his servants or agents any trade or business in such market, or occupying any shop, stall or other place therein, and may determine any lease or tenure which such person may possess in any such shop, stall or place.

Licence for private markets.

262. *(1) No person shall open a new private market or continue to keep open a private market unless he obtains from the council a licence to do so.*

(2) Application for such licence shall be made by the owner of the place in respect of which the licence is sought not less than six weeks before such place is opened as a market or before the commencement of the year for which the licence is sought, as the case may be.

(3) The council shall, as regards private markets already lawfully established and may, at its discretion, as regards new private markets, grant the licence applied for, subject to such regulations as to supervision and inspection and to such conditions as to sanitation, drainage, water-supply, width of paths and ways, weights and measures to be used, and rents and fees to be charged in such market as the council may think proper ; or the council may refuse to grant any such licence for any new private market. The council may, however, at any time, for breach of the conditions thereof, suspend or cancel any licence which has been granted under this section. The council may also modify the conditions of the licence to take effect from a specified date.

(4) When a licence is granted, refused, suspended, cancelled or modified under this section, the council shall cause a notice of such grant, refusal, suspension, cancellation or modification in English and a vernacular language of the district to be posted in some conspicuous place at or near the entrance to the place in respect of which the licence was sought or had been obtained.

(5) Every licence granted under this section shall expire at the end of the year.

Case-Law ; Sec. 262:—A municipality has absolute discretion under this section to refuse to grant a licence. 2 L.W. 368 = 17 M.L.T. 311.

Fee for licence.

262-A. *When a licence granted under section 262 permits the levy of any fees of the nature specified in sub-section (2) of section 260, a fee not exceeding fifteen per centum of the gross income of the owner from the market in the preceding year shall be charged by the municipal council for such licence.*

NOTES : **Sec. 262-A** :—See section 174 of the Local Boards Act. If the owner of a private market is authorised by his licence to levy the fees mentioned in section 262 (2), for public markets, the section lays down that the licence fee for keeping the private market under such conditions shall be a sum not exceeding 15 per cent of the gross income in the preceding year.

Sale in unlicensed private markets.

263. It shall not be lawful for any person to sell or expose for sale any animal or article in any unlicensed private market.

Powers of council in respect of private markets.

264. The council may by notice require the owner, occupier, or farmer of any private market to—

(*a*) construct approaches, entrances, passages, gates, drains and cess-pits for such market and provide it with latrines of such description and in such position and number as the council may think fit ;

(*b*) roof and pave the whole or any portion of it or pave any portion of the floor with such material as will in the opinion of the council secure imperviousness and ready cleansing ;

(*c*) ventilate it properly and provide it with a supply of water ;

(*d*) provide passages of sufficient width between the stalls and make such alterations in the stalls, passages, shops, doors or other parts of the market as the council may direct ; and

(*e*) keep it in a cleanly and proper state and remove all filth and refuse therefrom.

Suspension or refusal of licence in default.

265. (1) If any person after notice given to him in that behalf by the council fails within the period and in the manner laid down in the said notice to carry out any of the works specified in section 264 the council may suspend the licence of the said person, or may refuse to grant him a licence, until such works have been completed.

(2) It shall not be lawful for any person to open or keep open any such market after such suspension or refusal.

Prohibition against nuisances in private market.

266. No owner, occupier, agent or manager in charge of any private market, or of any shop, stall, shed or other place therein shall keep the same so that it is a nuisance or fail to cause anything that is a nuisance to be at once removed to a place to be notified by the council.

Power to close private markets.

267. The council or any officer duly authorized by it in that behalf may close any private market in respect of which no licence has been applied for or the licence for which has been refused, withheld or suspended *or which is held or kept open contrary to the provisions of this Act.*

NOTES **Sec. 267** :—The words " or which is held or kept open contrary to the provisions of this Act" have been added by the amending Act. See Sec. 179 of the Local Boards Act.

267-A. (*1*) *A municipal council may acquire the rights of any person to hold a private market in any place and to levy fees therein. The acquisition shall be made under the Land Acquisition Act, 1894, and such rights shall be deemed to be land for the purposes of that Act.*

Acquisition of rights of private persons to hold private markets.

(*2*) *On payment by the municipal council of the compensation awarded under the said Act in respect of such property and any other charges incurred in acquiring it, the rights of such person to hold a private market and to levy fees therein shall vest in the municipal council.*

NOTES: **Sec. 267-A** :—This section gives the council power to acquire private markets. *See* section 180 of the Local Boards Act.

268. The person in charge of a market shall prevent the entry therein or expel therefrom any person suffering from leprosy in whom the process of ulceration has commenced or from any infectious or contagious disease who sells or exposes for sale therein any article or who, not having purchased the same, handles any articles exposed for sale therein, and he may expel therefrom any person who is creating a disturbance therein.

Duty of expelling lepers, etc., from markets and power to expel disturbers.

269. (1) No person shall, without or otherwise than in conformity with a licence from the chairman, carry on the trade of a butcher, fishmonger or poulterer, or use any place for the sale of flesh or fish intended for human food in any place within municipal limits or at a distance within three miles of such limits :

Butcher's, fishmonger's and poulterer's licence.

Provided that no licence shall be required for a place used for the selling or storing for sale of preserved flesh or fish contained in air-tight and hermetically sealed receptacles :

Provided further that no licence shall be required for any place included in a public market as defined in section 167 of the Madras Local Boards Act, 1920.

(2) The chairman may, by an order and subject to such restrictions as to supervision and inspection as he thinks fit, grant or refuse to grant such licence.

(3) Every such licence shall expire at the end of the year in which it is granted unless for special reasons the chairman considers it should expire at an earlier date; when it shall expire at such earlier date as may be specified therein.

NOTES: **Sec. 269** :—The second proviso to sub-section (1) has been newly added with a view to prevent conflict of jurisdiction concerning public markets between a local board and a municipality within the three mile area.

Power to prohibit or regulate sale of articles in public streets.

270. The chairman may, with the sanction of the council, prohibit by public notice or licence, or regulate the sale or exposure for sale, of any *animals or* articles in or on any public street or part thereof.

NOTES: **Sec. 270** :—Section 263 mentions 'animal or article'. The reference to 'animal' in this section is consequently made.

Decision of disputes as to whether places are markets.

270-A. *If any question arises whether any place where persons assemble for the sale or purchase of articles of food or clothing, of livestock or poultry, of cotton, groundnut or other industrial crops or of any other raw or manufactured products is a market or not the municipal council shall make a reference to the Local Government and the decision of the Local Government on the question shall be final.*

Cart-stands.

Provision of public cart-stands, etc.

270-B. (*1*) *The municipal council may construct or provide public landing places, halting places and cart-stands and may levy fees for the use of the same.*

(*2*) *A statement in English and a vernacular language of the district of the fees fixed by the council for the use of such place shall be put up in a conspicuous part thereof.*

Explanation.—A cart-stand shall, for the purposes of this Act, include a stand for carriages and animals.

NOTES: **Sec. 270-B** :—Sections 270-B to 270 E are new sections grouped under new heading "cart-stands" whereby municipal councils are empowered to construct or provide public landing places, halting places and cart-stands and levy fees for the use of the same. The municipal councils may also grant licences for the opening and keeping of private cart-stands only subject to such regulations as to supervision and inspection and to such conditions as to conservancy as the council may lay down and on payment of the licence fee fixed by them.

Under Act V of 1920 provision was made in section 248 for the construction and maintenance of cart-stands, landing places and halting places. That section has now been omitted and some of its provisions re-enacted in section 270-B The provision for farming out the collection of fees has now been omitted and under the amending Act the municipal council has no power to farm the collection of such fees.

Prohibition of use of public place or sides of public street as cart-stand, etc.

270-C. *Where a municipal council has provided a public landing place, halting place or cart-stand, the chairman may prohibit the use for the same purpose by any person within such distance thereof, as may be determined by the municipal council, of any public place or the sides of any public street.*

Recovery of cart-stand fees, etc.

270-D. *If the fee leviable under sub-section* (*1*) *of section 270-B is not paid on demand, it shall be recoverable in the manner laid down in section 112 as if it were an unpaid toll.*

NOTES : **Sec. 270-D** :—Unpaid fees for the use of cart-stands etc. have been made recoverable as unpaid tolls.

Licence for private cart-stand.

270-E. (*1*) *No person shall open a new private cart-stand or continue to keep open a private cart-stand unless he obtains from the council a licence to do so.*

(*2*) *Application for such licence shall be made by the owner of the place in respect of which the licence is sought not less than six weeks before such place is opened as a cart-stand or before the commencement of the year for which the licence is sought, as the case may be.*

(*3*) *The council shall, as regards private cart-stands already lawfully established and may, at its discretion, as regards new private cart-stands, grant the licence applied for subject to such regulations as to supervision and inspection and to such conditions as to conservancy as the council may think proper ; or the council may refuse to grant any such licence for any new private cart-stand. The council may, however, at any time for breach of the conditions thereof suspend or cancel any licence which has been granted under this section. The council may also modify the conditions of the licence to take effect from a specified date.*

(*4*) *When a licence is granted, refused, suspended, cancelled or modified under this section, the council shall cause a notice of such grant, refusal, suspension, cancellation or modification, in English and a vernacular language of the district to be posted in some conspicuous place at or near the entrance to the place in respect of which the licence was sought or had been obtained.*

(*5*) *The council may levy for every licence granted under this section a fee not exceeding three hundred rupees per annum.*

(*6*) *Every licence granted under this section shall expire at the end of the year.*

Inspection of places for sale, etc.

Duty of chairman to inspect.

271. It shall be the duty of the chairman to make provision for the constant and vigilant inspection of animals, carcasses, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, milk, ghee, butter, oil and any other articles exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale or of preparation for sale.

Powers of chairman for purposes of inspection.

272. (1) The chairman or any person authorized by him in writing for the purpose may without notice enter any slaughter-house or any place where animals, poultry or fish intended for food are exposed for sale or where articles of food are being manufactured or exposed for sale at any time by day or night when the slaughter, exposure for sale or manufacture is being carried on and

inspect the same and any utensil or vessel used for manufacturing, preparing or containing any such article.

(2) If the chairman or any person so authorized by him has reason to believe that in any place any animal intended for human food is being slaughtered or any carcass is being skinned or cut up, or that any food is being manufactured, stored, prepared, packed, cleansed, kept or exposed for sale, or sold without, or otherwise than in conformity with a licence, he may enter any such place without notice, at any time by day or night for the purpose of satisfying himself whether any provision of laws, by-laws or regulations or any condition of a licence is being contravened.

(3) No claim shall lie against a chairman or any person acting under his authority or the council for any damage or inconvenience necessarily caused by the exercise of powers under this section or by the use of any force necessary for effecting an entry into any place under this section.

(4) In any legal proceedings in respect of powers exercised under this section in which it is alleged that any animals, poultry, fish or articles of food were not kept, exposed, hawked about, manufactured, prepared, stored, packed, or cleansed for sale, or were not intended for human food, the burden of proof shall lie on the party so alleging.

Preventing inspection by chairman.

273. No person shall in any manner whatsoever prevent the chairman or person duly authorized by him exercising his powers under the last preceding section.

Power of chairman to seize diseased animal, noxious food, etc.

274. If any animal, poultry or fish intended for food appears to the chairman or to a person duly authorized by him, to be diseased, or any food appears to him to be noxious, or if any vessel or utensil used in manufacturing, preparing or containing such article appears to be of such kind or in such state as to render the article noxious, he may seize or carry away or secure such animal article, utensil, or vessel, in order that the same may be dealt with as hereinafter provided.

Explanation—Meat subject to the process of blowing shall be deemed to be noxious.

Removing or interfering with article seized.

275. No person shall remove or in any way interfere with an animal or article secured under the last preceding section.

Power to destroy article seized.

276. (1) When any animal or article of food is seized under section 274 it may, with the consent of the owner or person in whose possession it was found, be forthwith destroyed in such manner as to prevent

its being used for human food or exposed for sale, and if the article is perishable, without such consent.

(2) Any expenses incurred in destroying any animal or article under sub-section (1), shall be paid by the owner or person in whose possession it was at the time of its seizure.

Production of articles, etc., seized before magistrate and powers of magistrate to deal with them.

277. (1) Articles of food, animals, poultry fish, utensils, vessels, etc., seized under section 274 and not destroyed under section 276 shall as soon as possible be produced before a magistrate.

(2) Whether or not complaint is laid before a magistrate of any offence under the Indian Penal Code or under this Act, if it appears to the magistrate on taking such evidence as he thinks necessary that any such animal, poultry or fish is diseased, or any such article is noxious or any such utensil or vessel is of such kind or in such state as is described in section 274 he may order the same,

(*a*) to be forfeited to the council;

(*b*) to be destroyed at the charge of the owner or person in whose possession it was at the time of seizure, in such manner as to prevent the same being again exposed or hawked about for sale, or used for human food or for the manufacture or preparation of, or for containing. any such article as aforesaid.

Disposal of the dead.

Registration or closing of ownerless places for disposal of the dead.

278. (1) Every owner or person having the control of any place used at the date of the coming into operation of this Act, as a place for burying, burning, or otherwise disposing of the dead shall, if such place be not already registered, apply to the council to have such place registered.

(2) If it appears to the council that there is no owner or person having the control of such place it shall assume such control and register such place, or may, with the sanction of the *Local Government*, close it.

Licensing of places for disposal of the dead.

279. (1) No new place for the disposal of the dead, whether public or private, shall be open, formed, constructed, or used unless a licence has been obtained from the council on application.

(2) Such application for a licence shall be accompained by a plan of the place to be registered, showing the locality, boundary and extent thereof, the name of the owner or person or community interested therein, the system of management and such further particulars as the council may require,

(3) The council may—

(*a*) grant or refuse a licence, or

(*b*) postpone the grant of a licence until objections to the site have been removed or any particulars called for by it have been furnished.

Provision of burial and burning grounds and crematoria within or without municipality.

280. (1) The council may, and shall if no sufficient provision exists, provide at the cost of the municipal fund places to be used as burial or burning grounds or crematoria, either within or without the limits of the municipality, and may charge rents and fees for the use thereof.

(2) The council may farm out the collection of such rents and fees for any period not exeeding three years at a time and on such terms and conditions as it may think fit.

(3) If the council provides any such place without the limits of the municipality, all the provisions of this Act and all by-laws framed under this Act for the management of such places within the municipality shall apply to such place.

Register of registered, licensed and provided places and prohibition of use of other places.

281. (1) A book shall be kept at the municipal office in which the places registered, licensed, or provided under sections 278, 279 or 280 and all such places registered, licensed or provided before the commencement of this Act, shall be recorded, and the plans of such places shall be filed in such office.

(2) Notice that such place has been registered, licensed or provided as aforesaid shall be affixed in English and in at least one vernacular language to some conspicuous place at or near the entrance to the burial or burning ground or other place as aforesaid.

(3) No person shall bury, burn or otherwise dispose of any corpse except in a place which has been registered, licensed or provided, as aforesaid.

Report of burials and burnings.

282. The person having control of a place for disposing of the dead shall give information of every burial, burning or other disposal of a corpse at such place to any person appointed by the chairman in that behalf.

283. (1) If the council is satisfied—

Prohibition against use of burial and burning grounds dangerous to health or overcrowded with graves.

(*a*) that any registered or licensed place for the disposal of the dead is in such a state or situation as to be or to be likely to become, dangerous to the health of persons living in the neighbourhood thereof, or

(*b*) that any burial ground is evercrowded with graves,

and if in the case of a public burial or burning ground or other place as aforesaid another convenient place duly authorized for the disposal of the dead exists or has been provided for the persons who would ordinarily make use of such place

it may, with the previous sanction of the *Local Government* give notice that it shall not be lawful after a period to be named in such notice to bury, burn or otherwise dispose of any corpse at such place.

(2) Every notice given under sub-section (1) shall be published in the district gazette and by beat of drum.

(3) After the expiry of the period named in such notice it shall not be lawful to bury, burn or otherwise dispose of a corpse at such place.

Prohibitions in respect of corpses.

284. No person shall—

(*a*) bury or cause to be buried any corpse or part thereof in a grave whether dug or constructed of masonry or otherwise, in such manner that the surface of the coffin or the surface of the body where no coffin is used, is at a less depth than five feet from the surface of the ground ; or

(*b*) build or dig or cause to be built or dug any grave in any burial ground at a less distance than two feet from the margin of any other existing grave ; or

(*c*) without the sanction in writing of the chairman or an order in writing of a magistrate, re-open a grave already occupied ; or

(*d*) convey or cause to be conveyed a corpse or part thereof to any burial or burning ground, and not cause the burial or burning of the same to commence within six hours after its arrival at such place ; or

(*e*) when burning or causing to be burnt a corpse or part thereof permit the same or any part thereof or its clothes to remain without being completely reduced to ashes ; or

(*f*) carry through any street a corpse or part thereof not decently covered ; or

(*g*) while carrying a corpse or part thereof within the municipality leave the same in or near any street for any purpose whatever ; or

(*h*) remove, otherwise than in a closed receptacle, any corpse or part thereof kept or used for the purpose of dissection.

Grave diggers' licence.

285. No person shall discharge the office of gravedigger or other attendant at a public place for the disposal of the dead (other than a place provided by the Government) unless he has been licensed in that behalf by the chairman. Such licence may be withdrawn or cancelled at the discretion of the council.

CHAPTER XIII.—VITAL STATISTICS AND THE PREVENTION OF DISEASE.

Vital statistics.

Compulsory registration of vital statistics.

286. (1) The municipal council shall register all births and deaths occurring in the municipality.

(2) *Information of births and deaths shall be given and their* registration shall be made and enforced in the prescribed manner.

Dangerous diseases

Definition of 'dangerous disease.'

287. 'Dangerous disease' means a disease specified in Schedule VI.

Obligation of medical practitioner or owner or occupier of house to report dangerous disease.

288. (1) If any medical practitioner becomes cognisant of the existence of any dangerous disease in any private or public dwelling (not being a public hospital) in the municipality, he shall inform the chairman with the least practicable delay.

(2) The information shall be communicated in such form and with such details as the chairman may require. The chairman may pay a fee not exceeding one rupee for each intimation by a private medical practitioner of a case occurring in his practice.

(3) This section shall apply to a hakim or a vaidyan.

(4) With the previous approval in all cases of the collector of the district the chairman may direct the compulsory notification by the owner or occupier of every house within the municipal limits during such period and to such officer as the chairman may prescribe of all deaths from or occurrence of dangerous diseases in his house.

Power of entry into suspected places.

289. The chairman *or health officer* may at any time by day or by night without notice, or after giving such notice as may appear to him reasonable, inspect any place in which any dangerous disease is reputed or suspected to exist, and take such measures as he may think fit to prevent the spread of such disease beyond such place.

Disinfection of buildings and articles.

290. (1) If the chairman *or health officer* is of opinion that the cleansing or disinfecting of any premises or part thereof, or of any article therein which is likely to retain infection, will tend to prevent or check the spread of any dangerous disease, he may by notice require the occupier to cleanse or disinfect the same, in the manner and within the time specified in such notice.

(2) If the chairman *or health officer* considers that immediate action is necessary, or that the occupier is, by reason of poverty or otherwise unable effectually to comply with his requisition, the chairman *or health officer* may himself, without notice, cause *such premises or article*

to be cleansed or disinfected and for this purpose may cause such article to be removed from the premises; and the expenses incurred by the chairman *or health officer*, shall be recoverable from the said occupier in cases in which he is, in the opinion of the chairman *or health officer* not unable by reason of poverty effectually to comply with such requisition.

Provision of places for disinfection and power to destroy infected articles.

291. (1) The chairman shall from time to time notify places at which conveyances, clothing bedding, or other articles which have been exposed to infection from any dangerous disease shall be washed or disinfected.

(2) The chairman may direct any clothing, bedding or other articles likely to retain such infection to be disinfected or destroyed and shall, on demand, give compensation for any article destroyed under this sub-section.

(3) No person shall wash such clothing or bedding or other articles in any places other than those set apart for such purposes under sub-section (1).

Prohibition against transfer of infected articles.

292. No person shall, without previously disinfecting it, give, lend, let, hire, sell, transmit or otherwise dispose of any article which he knows or has reason to know has been exposed to infection from any dangerous disease:

Provided that nothing in this sub-section shall apply to a person who transmits with proper precautions any article for the purpose of having it disinfected.

Power of council to prohibit use of water likely to spread infection.

293. If the chief medical officer of the district, the health officer or the local medical officer certifies that the water in any well, tank or other place within the limits of the municipality is likely, if used for drinking, to engender or cause the spread of any dangerous disease, the council may, by public notice, prohibit the removal or use of such water for drinking and domestic purposes during a specified period.

Chairman may order removal of patients to hospital.

294. When a hospital or other place for the reception of persons suffering from dangerous diseases is provided by the municipal council the chairman may, on a certificate signed by a medical practitioner registered under the Madras Medical Registration Act, 1914, arrange for, or direct the removal to such hospital or place of any person suffering from a dangerous disease who is, in the opinion of such medical practitioner, without proper lodging or accommodation, or without medical supervision directed to prevent the spread of the disease, or who is in a place occupied by more than one family.

Prohibition against infected person carrying on occupation.

295. If any person knows or has been certified by the health officer, the local medical officer, or a registered medical practitioner that he is suffering from a dangerous disease he shall not engage in any occupation, or carry on any trade or business unless he can do so without risk of spreading the disease.

Prohibition against diseased person entering public conveyance.

296. (1) No person who is suffering from any dangerous disease shall, without taking proper precautions against spreading such disease, cause or suffer himself to be conveyed in a public conveyance.

(2) No person who is suffering from any dangerous disease shall enter a public conveyance without previously notifying to the owner or driver or person in charge of such conveyance that he is so suffering.

(3) No owner, driver, or person in charge of a public conveyance shall knowingly carry or permit to be carried in such conveyance any person suffering as aforesaid in contravention of sub-section (1).

(4) No owner or driver or person in charge of a public conveyance shall be bound to convey any person suffering as aforesaid, unless and until the said person pays or tenders a sum sufficient to cover any loss and costs that may be incurred in disinfecting such conveyance, anything in any Act relating to public conveyances for the time being in force to the contrary not withstanding.

(5) A court convicting any person of contravening sub-section (1) or sub-section (2) may levy, in addition to the penalty for the offence provided in this Act, an additional fine of such amount as the court deems sufficient to cover the loss and costs which the owner or driver must incur for the purpose of disinfecting the conveyance. The amount of any additional fine so imposed shall be awarded by the court to the owner or driver of the conveyance.

Provided that if such additional fine is imposed in a case which is subject to appeal the amount shall not be paid to the owner or driver before the period allowed for presenting the appeal has elapsed; or, if an appeal is presented, before the decision of the appeal.

(6) At the time of awarding compensation in any subsequent civil suit relating to the same matter the court shall take into account any sum which the plaintiff shall have received under this section.

Letting of infected buildings.

297. (1) No person shall let or sublet or for that purpose allow any person to enter a building or any part of a building in which he knows or has reason to know that a person has been suffering from any dangerous disease without having the same and all articles therein liable to retain infection disinfected to the satisfaction of the chairman.

(2) For the purpose of sub-section (1), the keeper of a hotel or lodging-house shall be deemed to let the same or part of the same to any person accommodated therein.

Powers to order closure of places of public entertainment.

298. In the event of the prevalence of any dangerous disease within the municipality, the council may by notice require the owner or occupier of any building, booth or tent used for purposes of public entertainment to close the same for such period as it may fix.

Minor suffering from dangerous disease not to attend school.

299. No person being the parent or having the care or charge of a minor who is or has been suffering from a dangerous disease or has been exposed to infection therefrom shall, after a notice from the health officer or the local medical officer that the minor is not to be sent to school or college, permit such minor to attend school or college without having procured from the health officer, the local medical officer or a registered medical practitioner a certificate that in his opinion such minor may attend without undue risk of communicating such disease to others.

No fee shall be charged by the health officer or the local medical officer for the grant of a certificate under this section.

Samall pox.

Compulsory vaccination.

300. (1) Vaccination shall be compulsory in every municipality *in respect of such persons and to such extent as may be pressribed.*

(2) The procedure prescribed in such rules for enforcing vaccination shall be observed.

NOTES : **Sec. 300** :—The Select Committee says as follows :—" The Committee has thought it best to recognise the growing strength of the conscientious objectors to a system of compulsory vaccination and to make vaccination optional, enjoyining on every municipality at the same time to give facilities for vaccination for those who require it." This recommendation has not been accepted by the legislature and vaccination is still compulsory. Verbal alterations have been made to make the meaning of the section clear.

Obligation to give information of small-pox.

301. Where an inmate of any dwelling-place is suffering from small pox the head of the family to which the inmate belongs and in his default, the occupier or person in charge of such place, shall inform the chairman with the least practicable delay.

Prohibition of inoculation for small pox.

302. (1) Inoculation for small pox is hereby prohibited.

(2) No person who has undergone the operation of inoculation shall enter any municipality before the lapse of forty days from the date of inoculation without a certificate from a medical practitioner of such class as the council may authorize to grant such certificates, stating that such person is no longer likely to produce small pox by contact or near approach.

PART V.—SUBSIDIARY LEGISLATION AND PENALTIES.

CHAPTER XIV.—RULES, BY-LAWS AND REGULATIONS.

Rules and schedules.

Power of Local Government to make rules.

303. (1) The *Local Government* may make rules to carry out all or any of the purposes of this Act not inconsistent therewith.

(2) In particular and without prejudice to the generality of the foregoing power *they may make rules*—

(*a*) with reference to all matters expressly required or allowed by this Act to be prescribed;

(*b*) *with reference to all matters not expressly provided for in this Act, relating to the elections of chairmen, vice-chairmen or councillors including deposits to be made by candidates standing for election as councillors and the conditions under which such deposits may be forfeited*;

Provided that the deposit required shall not exceed one hundred Rupees; and

Provided further that no deposit shall be required from any Adi-Dravida candidate;

(*c*) [*Omitted*].

(*d*) as to the conditions on which property may be acquired by the municipal council or on which property vested in or belonging to the municipal council may be transferred by sale, mortgage, lease, exchange or otherwise;

(*e*) as to the *working* of provident funds;

(*f*) as to the matters mentioned in rule 37 of the Taxation and Finance Rules in Schedule IV; as to the conditions on which grants-in-aid shall be paid from the municipal fund for purposes of education and medical relief and as to the conditions on which grants and loans may be made to co-operative building societies;

(*g*) as to the intermediate offices, if any, through which correspondence between the municipal authorities and the *Local Government* or officers of the Government shall pass;

(*h*) as to the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of the municipal council and the power of the municipal authorities or Government officers to accord professional or administrative sanction to estimates;

(*i*) as to the accounts to be kept by the municipal council, the manner in which such accounts shall be audited and published and as to the conditions under which the rate-payers may appear before auditors, inspect books and vouchers and take exception to items entered or omitted therein;

(*j*) as to the estimates of receipts and expenditure, returns, statements and reports to be submitted by municipal council;

(*k*) as to the mode in which the officers of Government shall advise and assist municipal councils in carrying out the purposes of this Act;

(*l*) as to the interpellation of the chairman by the members of the council;

(*m*) as to the moving of resolutions at the meetings of the council;

(*n*) *for regulating the sharing between local authorities in the Presidency of Madras of the proceeds of the profession tax, surcharge on income-tax, tax on carriages and animals, tax on carts, tolls and other taxes or income, levied or obtained under this or any other Act;*

(*o*) [*Omitted.*]

(*p*) as to the form of registers and returns of births and deaths and the manner in which the registers shall be maintained, the dates on which returns shall be made and the officer to whom returns shall be sent;

(*q*) *as to the transfer of allotments entered in the sanctioned budget of a municipal council from one head to another;*

(*r*) *as to the powers of auditors, inspecting and superintending officers and officers authorized to hold inquiries, to summon and examine witnesses, and to compel the production of documents and all other matters connected with audit, inspection and superintendence; and*

(*s*) *for determining the cost of buildings and lands.*

(3) In making any rule the *Local Government* may provide that a breach thereof shall be punishable with fine which may extend to one hundred rupees.

NOTES: **Sec. 303** :—Under the amending Act, the Local Government has power to make rules requiring candidates standing for election for municipal councils to make a deposit of a sum not exceeding Rs. 100 and lay down conditions under which such deposits may be forfeited with a view to prevent frivolous candidature.

Case Law: Sec. 303 (2) (b) & (c):—Before a rule framed by a rule-making authority is declared *ultra vires* the court must be satisfied not only that it had no power to act under the power under which it purported to act, but also that it had no power at all under any law to act. If the power can be found elsewhere from the section quoted, the rule will be referred to that power and held not to be *ultra vires*.

Rules framed by the Governor-in-Council relating to the election of chairman and vice-chairman of district municipalities under Section 303 (2) (b) of the Act though unauthorised under that section, there was ample power to frame the rules under section 303 (2) (c) and it is only an obvious mistake that Cl. (c) was not also added. Such an omission does not affect the validity of the rule. (See Halsbury Vol. 27 p. 146.) 45 M.L.J. 156=19 L.W. 536=A.I.R. 1924 Mad. 92.

Making of rules after previous publication.

304. The power to make rules under *section 303* is subject to the following conditions :—

(*a*) A draft of the rules shall be published in the *Fort St. George Gazette*.

(*b*) Such draft shall not be further proceeded with until six weeks after such publication or until such later date as the *Local Government* may appoint.

(*c*) All rules made under *section 303* shall be published in the *Fort. St. George Gazette* and upon such publication shall have effect as if enacted in this Act.

Power of Local Government to amend and cancel schedules.

305. (1) The *Local Government* may make rules altering, adding to, or cancelling *any of the Schedules to this Act except Schedules I, VII and VIII.*

(2) All references made in this Act to any of the aforesaid Schedules shall be construed as referring to such Schedules as for the time being amended in exercise of the powers conferred by sub-section (1).

Procedure for the making of rules under sub-section (2) of section 77-A and section 305.

305-A. *A draft of the rules proposed to be made under sub-section (2) of section 77-A or under section 305 shall be laid on the table of the Legislative Council and the rules shall not be made unless the Legislative Council approves the draft either without modification or addition or with modifications or additions; but upon such approval being given, the rules may be made in the form in which they have been approved and such rules on being so made shall be notified in the Fort St. George Gazette and shall thereafter be of full force and effect.*

NOTES: **Sec. 305-A**:—Under section 305 of Act V of 1920 the Governor-in-Council had power to alter the rules in the Schedules II, V, VI and part of Schedule IV by making rules. The procedure to be followed in framing the rules was the same as that prescribed for making rules under section 303. Under section 305 of the amending Act which has taken the place of the old section 304, the Local Government have power to alter the rules in Schedules II, III, IV, V and VI but the power is subject to the provisions of section 305-A (newly added) under which the Legislative Council has to approve the draft rules either with or without modifications or additions.

The reason for this procedure seems to be obvious. The rules in the Schedules which are as much part of the statute as the sections in the body of the Act and which are relegated to the position of Schedules for purposes of convenience in that a considerable portion deals with procedure, should be subject to the control of the Legislature which originally enacted them before they are modified or added to or cancelled.

By-laws.

Power of council to make by-laws.

306. The council may make by-laws, not inconsistent with this act or with any other law to provide—

(*1*) *for all matters expressly required or allowed by this Act to be provided for by by-law;*

(*1-A*) for the due performance by all municipal officers and servants of the duties assigned to them;

(2) for the regulation of the time and mode of collecting the taxes, duties and tolls under this Act;

(2-A) for determining the conditions under which lands shall be deemed to be appurtenant to buildings ;

(3) (*a*) for the use of public tanks, wells, conduits and other places or works for water-supply ;

(*b*) for the regulation of public bathing, washing and the like ;

(*c*) for the maintenance and protection of the water-supply system, and the protection of the water-supply from contamination ;

(*d*) for the conditions on which house-connexions with the council's water-supply mains may be made ; for their alteration and repair and for their being kept in proper order ;

(*e*) for supply of water for domestic consumption and use ;

(*f*) for the prevention of waste of water ;

(*g*) for the measurement of water ;

(*h*) for the compulsory provision of cisterns and meters ;

(*i*) for the supply of water in case of fire ;

(4) for the maintenance and protection of the lighting system ;

(5) (*a*) for the maintenance and protection of the drainage system ;

(*b*) for the construction of house-drains, and for regulating their situation, mode of construction and materials ;

(*c*) for the alteration and repair of house-drains ;

(*d*) for the cleansing of house drains ;

(*e*) for the construction of cess-pools, septic tanks, filters and drains ;

(*f*) for the payment or apportionment of money payable on account of pipes or drains common to more premises than one ;

(6) for the cleansing of latrines, earth-closets, ash-pits and cess-pools, and the keeping of latrines supplied with sufficient water for flushing ;

(7) (*a*) for the testing of water pipes and drains in private premises, the recovery or the apportionment of the cost of such testing, and the breaking up of ground or of buildings for the purpose of such testing.

(*b*) for the licensing of plumbers and fitters, and for the compulsory employment of licensed plumbers and fitters ;

(8) (*a*) for the laying out of streets, and for determining the information and plans to be submitted with applications for permission to lay out streets ; and for regulating the level and width of public streets and the height of buildings abutting thereon ;

(*b*) for the regulation of the use of public streets, and the closing thereof or parts thereof ;

(*c*) for the regulation of traffic in public streets, or their reservation for particular kinds of traffic ;

(*d*) for the protection of avenues, trees, grass and other appurtenances of public streets and other places ;

(9) for the regulation of the use of parks, gardens and other public or municipal places;

(10) (*a*) for the regulation of building;

(*b*) for determining the information and plans to be submitted with applications to build;

(*c*) for the licensing of builders and surveyors and for the compulsory employment of licensed builders and surveyors;

(11) for the regulation of hotels, lodging houses, boarding houses choultries, rest-houses, emigration depots, restaurants, eating-houses cafés, refreshment rooms, coffee-houses, and any premises to which the public are admitted for repose or for the consumption of any food or drink;

(12) for regulating the mode of constructing stables, cattle-sheds and cow-houses and connecting them with municipal drains;

(13) for the sanitary control and supervision of places used for any of the purposes specified in Schedule V and of any trade or manufacture carried on therein;

(14) (*a*) for the control and supervision of slaughter-houses and of places used for skinning and cutting up carcasses;

(*b*) for the control and supervision of the methods of slaughtering;

(*c*) for the control and supervision of butchers carrying on business in the municipality or at any slaughter-house without the municipality provided or licensed by the municipal council;

(15) for the inspection of milch cattle, and the regulation of the ventilation, lighting, cleaning, drainage and water-supply of dairies and cattle-sheds in the occupation of persons following the trade of dairy man or milk-seller;

(16) for enforcing the cleanliness of milk stores and milk shops and vessels and utensils used by the keepers thereof or by hawkers for containing or measuring milk or preparing any milk product and for enforcing the cleanliness of persons employed in the milk trade;

(17) for requiring notice to be given whenever any milch animal is affected with any contagious disease and prescribing the precautions to be taken in order to protect milch cattle and milk against infection and contamination;

(18) (*a*) for the inspection of public and private markets and shops and other places therein;

(*b*) for the regulation of their use and the control of their sanitary condition;

(*c*) *for licensing and controlling brokers, commission agents, weighmen and measurers practising their calling in markets*;

(19) for prescribing the method of sale of articles whether by measure, weight, tale or piece;

(20) for prescribing and providing standard weights, scales and measures and preventing the use of any others ;

(21) for the prevention of the sale or exposure for sale of unwholesome meat, fish or provisions and securing the efficient inspection and sanitary regulation of shops in which articles intended for human food are kept or sold ;

(22) (*a*) for the regulation of burial and burning grounds and other places for the disposal of corpses ;

(*b*) for the levy of fees for the use of such burial and burning grounds and crematoria as are maintained by the council ;

(*c*) for the verification of deaths and the causes of death ;

(*d*) for the period for which corpses must be kept for inspection;

(*e*) for the period within which corpses must be conveyed to a burial or burning ground, and the mode of conveyance of corpses through public places ;

(23) for the registration of births, deaths and marriages ;

(*23-A*) *for the training and licensing of dhais and midwives* ;

(24) for the enumeration of the inhabitants of the city ;

(25) for the prevention of dangerous diseases of men or animals ;

(26) for the enforcement of compulsory vaccination ;

(27) for the prevention of outbreaks of fire ;

(28) for the prohibition and regulation of advertisements in public streets or parks :

(29) in general for securing cleanliness, safety and order and the good government and well-being of the municipality and for carrying out all the purposes of this Act.

Power to give retrospective effect to certain by-laws.

307. By-laws with regard to the drainage of, and supply of water to, building and water-closets, earth-closets, privies, ash-pits and cess-pools in connexion with buildings and the keeping of water-closets supplied with sufficient water for flushing may be made so as to affect buildings erected before the passing of the by-laws or this Act

Penalty for breaches of by-laws.

308. In making a by-law, the municipal council may provide that a breach thereof shall be punishable —

(*a*) with fine which may extend to fifty rupees, and in case of a continuing breach with fine which may extend to fifteen rupees for every day during which the breach continues after conviction for the first breach, or

(*b*) with fine which may extend to ten rupees for every day during which the breach continues after receipt of notice from the chairman to discontinue such breach.

Conditions precedent to making of by-laws.

309. *The municipal council shall, before making or altering by-laws, publish a draft of the proposed by-laws and alterations together with a notice specifying a date at or after which such draft will be taken into consideration, and shall, before making the by-laws or alterations, receive and consider any objection or suggestion which may be made in respect of such draft by any person interested therein before the date so specified.*

NOTES: **Secs. 309 & 310**:—The provisions of these two sections correspond to sections 310 & 309 of Act V of 1920. The sections have been transposed for purposes of regular sequence. The preliminary stages in the making of by-laws are enacted in section 309 and mode of confirmation is given in section 310.

Confirmation of by-laws by Local Government.

310. (*1*) *No by-law or cancellation or alteration of a by-law shall have effect until the same shall have been approved and confirmed by the Local Government.*

(*2*) *Any by-law or cancellation or alteration of a by-law when it shall have been duly confirmed shall be published in the district gazette in English and shall come into operation three months after it has been so published.*

Publication of rules, by-laws and regulations.

Copies of Act, rules and by-laws to be sold at municipal office.

311. Complete copies in English and in a vernacular language of the district—

(*a*) of this Act,

(*b*) of all rules framed by the *Local Government* under *clause* (*b*) *of sub-section* (*2*) *of section 303,* and

(*c*) of all by-laws in force for the time being,

shall be kept at the municipal office and shall be sold to the public at cost price.

Publication of regulations.

312. Regulations made by the municipal authorities under this Act shall be published in such manner as the council may determine.

CHAPTER XV.—PENALTIES

General provisions regulating penalties specified in the schedule.

313. (1) Whoever—

(*a*) contravenes any provision of any of the sections or rules specified in the first column of Schedule VII, or

(*b*) contravenes any rule or order made under any of the specified sections or rules, or

(*c*) fails to comply with any direction lawfully given to him or any requisition lawfully made upon him under or in pursuance of the provisions of any of the said sections or rules,

shall on conviction be punished with fine which may extend to the amount mentioned in that behalf in the fourth column of the said schedule,

(2) Whoever after having been convicted of—

(*a*) contravening any provision of the sections or rules specified in the first column of Schedule VIII, or

(*b*) contravening any rule or order made under any of the specified sections or rules, or

(*c*) failing to comply with any direction lawfully given to him or any requisition lawfully made upon him under or in pursuance of any of the said sections or rules, continues to contravene the said provision or to neglect to comply with the said direction or requisition, as the case may be, shall on conviction be punished for each day after the previous date of conviction during which he continues so to offend, with fine which may extend to the amount mentioned in that behalf in the fourth column of the said schedule.

Explanation.—The entries in the third column of Schedules VII and VIII headed "subject" are not intended as definitions of the offences described in the sections, sub-sections, or clauses mentioned in the first and second columns or even as abstracts of those sections, sub-sections or clauses, but are inserted merely as references to the subject of the sections, sub-sections or clauses as the case may be.

Penalty for acting as councillor, chairman or vice-chairman when disqualified.

314. (*1*) *Whoever acts as a member of a municipal council knowing that under this Act or the rules made thereunder he is not entitled or has ceased to be entitled to hold such office shall, on conviction, be punished with fine not exceeding two hundred rupees for every such offence.*

(*2*) *Whoever acts as or exercises the functions of the chairman or vice-chairman of a municipal council knowing that under this Act or the rules made thereunder he is not entitled or has ceased to be entitled to hold such office or to exercise such functions shall, on conviction, be punished with fine not exceeding one thousand rupees for every such offence.*

(*3*) *If the chairman or vice-chairman of a municipal council fails to hand over any documents of, or any moneys or other properties vested in, or belonging to, the municipal council which or in are have come into his possession or control, to his successor in office or other prescribed authority, in every case as soon as his term of office as chairman or vice-chairman expires and in the case of the vice-chairman also on demand by the chairman, such chairman or vice-chairman shall, on conviction, be punished with fine not exceeding one thousand rupees for every such offence.*

NOTES : **Sec. 314** :—The scope of this section has been much widened. Sub-sections (2) and (3) are new. Sub-section (2) imposes a penalty upon persons who act as chairman or vice-chairman when they are not entitled or have ceased to be entitled to do so and sub-section (3) deals with failure to hand over documents, moneys and other properties of the municipality by a chairman or vice-chairman to their successors-in-office or prescribed authority.

315. If any municipal officer or servant knowingly acquires, directly or indirectly, by himself or by a partner or employer or servant, any personal share or interest in any contract or employment with, by, or on behalf of the municipal council, he shall be deemed to have committed an offence under section 168 of the Indian Penal Code:

Penalty for acquisition by municipal officer of interest in contract or work.

Provided that no person shall, by reason of being a shareholder in, or member of, any company, be held to be interested in any contract entered into between such company and the council, unless he is a director of such company:

Provided further that nothing in this section shall apply to a teacher employed by a municipal council who, with the sanction oft he Local Government, enters into a contract with the municipal council with regard to the utilisation for the purpose of a school of any land or building owned by him or in which he has a share or interest.

316. (1) Every owner or person in charge of any vehicle or animal liable to tax under section 98 who omits to obtain a licence shall on conviction be punished with fine not exceeding fifty rupees and shall also pay the amount of the tax payable by him in respect of such vehicle or animal.

Penalty for omission to take out licence for vehicle or animal.

(2) On payment of such fine and tax and of such costs as may be awarded, such owner or person shall receive a licence for the vehicle or animal in respect of which he has been fined and for the period during which he has been found to be in default.

(3) The provisions of this section shall apply to any person who, having compounded for the payment of a certain sum under section 101, fails to pay such sum, and the amount due for a licence shall in such case be taken as the amount so compounded for.

Penalty for unlawful building..

317. If the construction or re-construction of any building or well—

(*a*) is commenced without the permission of the chairman, or

(*b*) is carried on or completed otherwise than in accordance with the particulars on which such permission was based, or

(*c*) is carried on or completed in contravention of any lawful order or in breach of any provision contained in this Act or in any rule or by-law made hereunder or of any direction or requisition lawfully given or made, or

if any alterations or additions required by any notice issued under section 205 or section 215 are not duly made, or

if any person to whom a direction is given by the chairman to alter or demolish a building or well under section 215 fails to obey such direction,

the owner of the building or well or the said person, as the case may be, shall be liable on conviction to a fine which may extend in the case of a building to five hundred rupees and in the case of a well or hut to fifty rupees, and to a further fine which may extend in the case of a building to one hundred rupees, and in the case of a well or hut to ten rupees, for each day during which the offence is proved to have continued after the first day.

Case Law: Sec. 317 (a) & (c):—The offence defined in Sec. 317 (c) is of quite a different character from the offence defined in section 317 (a). The essence of the offence contained in Section 317 (c) is that after reconstruction had been commenced an order passed to prohibit its carrying on or completion except upon certain terms and that order is disobeyed. 25 L.W. 475 = A.I.R. (1927) Mad. 442.

Notice to scavengers before discharge.

318. (1) In the absence of a written contract to the contrary, every scavenger employed by the municipal council shall be entitled to one month's notice before discharge or to one month's wages in lieu thereof unless he is discharged for misconduct or was engaged for a specified term and discharged at the end of it.

Penalty for withdrawal of scavengers without notice.

(2) Should any scavenger employed by the council, in the absence of a written contract authorizing him so to do and without reasonable cause, resign his employment or absent himself from his duties without giving one month's notice to the council, or neglect or refuse to perform his duties, or any of them, he shall be liable on conviction to a fine not exceeding fifty rupees or to imprisonment of either description which may extend to two months.

Application of sub-sections (1) and (2) to other municipal servants.

(3) The *Local Government* may, by notification, direct that, on and from a date to be specified in the notification, the provisions of sub-sections (1) and (2) with respect to scavengers shall apply also to any specified class of municipal servants whose functions intimately concern the public health or safety.

Wrongful restraint of chairman and his delegates.

319. Every person who prevents the chairman or any person to whom the chairman has lawfully delegated his powers of entering into or on any land or building, from exercising his lawful power of entering thereinto or thereon shall be deemed to have committed an offence under section 341 of the Indian Penal Code.

Penalty for not giving or giving false information.

320. If any person who is required by the provisions of this Act or by any notice or other proceedings issued under this Act to furnish any information—

(*a*) omits to furnish it, or

(*b*) knowingly or negligently furnishes false information,

such person shall be liable to a fine not exceeding Rupees 100.

PART VI

CHAPTER XVI.—PROCEDURE AND MISCELLANEOUS.

Licences and permissions.

General provisions regarding licences and permissions.

321. (1) Every licence and permission granted under this Act or any rule or by-law made under this Act shall specify the period, if any, for which, and the restrictions, limitations, and conditions, subject to which the same is granted, and shall be signed by the chairman.

(2) *Save as otherwise expressly provided in or may be prescribed under this Act, for every such licence or permission, fees may be charged on such units and at such rates as may be fixed by the municipal council.*

(3) The council may farm out the collection of such fees for any period not exceeding three years at a time on such conditions as it thinks fit.

(*3-A*) *Every order of a municipal authority granting or refusing a licence or permission shall be published on the notice board of the municipal council.*

(4) Every order of a municipal authority refusing, suspending, cancelling or modifying a licence or permission shall be in writing and shall state the grounds on which it proceeds.

(5) Subject to the special provisions in Chapters X and XII regarding buildings and private markets, and subject to such sanction as may be required for the refusal of a licence or permission, any licence or permission granted under this Act or any rule or by-law made under it may at any time be suspended or revoked by the chairman if any of its restrictions, limitations or conditions is evaded or infringed by the grantee, or if the grantee is convicted of a breach of any of the provisions of this Act, or of any rule, by-law or regulation made under it in any matter to which such licence or permission relates, or if the grantee has obtained the same by misrepresentation or fraud.

(6) It shall be the duty of the chairman to inspect places in respect of which a licence or permission is required by or under this Act, and he may enter any such place between sunrise and sunset and also between sunset and sunrise if it is open to the public or any industry is being carried on it at the time; and if he has reason to believe that anything is being done in any place without a licence or permission where the same is required by or under this Act, or otherwise than in conformity with the same, he may at any time by day or night without notice enter such place for the purpose of satisfying himself whether any provision of law, rules, by-laws or regulations, any condition of a licence of permission or any lawful direction or prohibition is being contravened and no claim shall lie against any person for any damage or inconvenience necessarily caused by the exercise of powers under this sub-section

by the chairman or any person to whom he has lawfully delegated his powers, or by any force necessary for effecting an entrance under this sub-section.

(7) When any licence or permission is suspended or revoked, or when the period for which it was granted, or within which application for renewal should be made, has expired, whichever expires later, the grantee shall for all purposes of this Act or any rule or by-law made under this Act be deemed to be without a licence or permission until the order suspending or revoking the licence or permission is cancelled or, subject to sub-section (11), until the licence or permission is renewed, as the case may be.

(8) Every grantee of any licence or permission shall at all reasonable times, while such licence or permission remains in force, produce the same at the request of the chairman.

(9) Whenever any person is convicted of an offence in respect of the failure to obtain a licence or permission or to make a registration required by the provisions of this Act or any rule or by-law made under this Act, the magistrate shall, in addition to any fine which may be imposed, recover summarily and pay over to the municipal council the amount of the fee chargeable for the licence or permission or for registration *and may in his discretion also recover summarily and pay over to the council such amount, if any, as he may fix as the costs of the prosecution.*

(10) Such recovery of the fee under sub-section (9) shall not entitle the person convicted to a licence or permission or to registration as aforesaid.

(11) The acceptance by the municipal council of the pre-payment of the fee for a licence or permission or for registration shall not entitle the person making such pre-payment to the licence or permission or to registration as the case may be, but only to refund of the fee in case of refusal of the licence or permission or of registration; but an applicant for the renewal of a licence or permission or registration shall until communication of orders on his application be entitled to act as if the licence or permission or registration had been renewed; and save as otherwise specially provided in this Act, if orders on an application for licence or permission or for registration are not communicated to the applicant within thirty days after the receipt of the application by the chairman, the application shall be deemed to have been allowed for the year or for such less period as is mentioned in the application, and subject to the law, rules, by-laws, regulations and all conditions ordinarily imposed.

NOTES: **Sec. 321**:—Sub-section (2) has been amended so as to give the municipal council power to fix the units on which fees are to be charged. Sub-section (3-A) has been newly added making it obligatory on the municipal council to publish all orders granting or refusing licences on the notice board of the council. This has been done with a view to give notice to persons adversely affected to appeal against the order

granting or refusing licences as a general right of appeal has been given under section 322 sub-section (1) against such orders and the time for filing such appeals is 30 days from the date of the publication of the order in the notice board of the municipality under section 323 (a).

By the amendment in sub-section (9), the magistrate is empowered to award costs to the municipal council in the case of prosecutions for failure to take out licences.

Case Law : Sec. 321 :—The provisions of section 321 of the Act do not apply to permission granted under sec. 195. 54 M. L. J. 642,

Appeals.

Appeals from chairman to council.

322. (1) An appeal shall lie to the council from—

(*a*) any notice issued or other action taken or proposed to be taken by the chairman—

(i) under sections 131, 139, 146, 147, 148, 150, 205 sub-section (1) and sub-section (3), 216, sub-section (3), 218 sub-section (1), 219 sub-section (1), 224 sub-section (1), 226, 236, 246, 247 ;

(ii) under any by-law concerning house drainage and the connexion of house drains with municipal drains or house connexions with municipal water-supply or lighting mains ; or

(*b*) *any refusal by the chairman to approve a building site under section 200 ;* or

(*c*) *any order of the chairman granting or refusing a licence or permission ;*

(*d*) any order of the chairman made under section 321, sub-section (5), suspending or revoking a licence ; or

(*e*) any other order of the chairman that may be made appealable by rules under section 303.

(2) The decision of the council on any such appeal shall be final.

Limitation of time for appeal.

323. In any case in which no time is prescribed by the foregoing provisions of this Act for the presentation of an appeal allowed thereunder, such appeal subject to the provisions of section 5 of the Indian Limitation Act, 1908, must *be presented—*

(*a*) *where the appeal is against an order granting a licence or permission, within thirty days after the date of the publication of the order on the notice board of the municipal council, and*

(*b*) *in other cases, within thirty days after the date of the receipt of the order or proceeding against which the appeal is made.*

Power to summon.

Power of persons conducting election and other enquiries.

324. All persons authorized by rule to conduct enquiries relating to elections and all inspecting or superintending officers holding any enquiries into matters falling within the scope of their duties shall have for the purposes of such enquiries the same powers in regard

to the issue of summonses for the attendance of witnesses and the production of documents as are conferred upon revenue officers by the Madras Revenue Summonses Act, 1869, and the provisions of sections 2, 3, 4 and 5 of that Act shall apply to summonses issued and to persons summoned by virtue of the powers conferred by this section; and all persons to whom summonses are issued by virtue of the said powers shall be bound to obey such summonses.

Summons to attend and give evidence or produce documents.

325. The chairman may summon any person to attend before him and to give evidence or produce documents, as the case may be, in respect of any question relating to taxation, or inspection, or registration, or to the grant of any licence or permission under the provisions of this Act.

Notices, etc.

Form of notices and permissions.

326. All notices and permissions given, issued, or granted, as the case may be, under the provisions of this Act must be in writing.

Signature on documents.

327. (1) Every licence, permission, notice, bill, schedule, summons or other document which is required by this Act or by any rule, by-law or regulation made under it to bear the signature of the chairman or of any municipal officer shall be deemed to be properly signed if it bears a facsimile of the signature of the chairman or of such municipal officer, as the case may be, stamped thereon.

(2) Nothing in sub-section (1) shall be deemed to apply to a cheque drawn upon the municipal fund or to any deed of contract entered into by the municipal council.

Publication of notifications.

328. *Save as otherwise provided, every notification under this Act other than one issued by the Local Government*, shall be published in the official gazette of the district in which the municipality is situated both in English and in a vernacular language of the district.

Publication of by-laws notices, orders, etc.

329. Every by-law, order, notice or other document directed to be published under this Act shall, unless a different method be prescribed by this Act, or by the council, be written in, or translated into, the vernacular of the district and deposited at the municipal office, and a copy shall be posted up in a conspicuous position at such office and such other places as the council may direct. And a public proclamation hall be made throughout the municipality by beat of drum that such copy has been so posted up and that the original is open to inspection at the municipal office.

Notice of prohibition or setting apart of places.

330. Whenever the municipal council shall have set apart any place for any purpose authorized by this Act or shall have prohibited the doing of anything in any place, the chairman shall forthwith cause to be put up a notice in English and in a vernacular language of the district at or near such place. Such notice shall specify the purpose for which such place has been set apart or the act prohibited in such place.

Method of serving documents.

331. (1) When any notice or other document is required by this Act, or by any rule, by-law, regulation or order made under it, to be served on, or sent to any person, the service or sending thereof may be effected—

(*a*) by giving or tendering the said document to such person; or

(*b*) if such person is not found, by leaving such document at his last known place of abode or business or by giving or tendering the same to some adult member or servant of his family; or

(*c*) if such person does not reside in the municipality and his address elsewhere is known to the chairman by sending the same to him by post registered; or

(*d*) if none of the means aforesaid be available, by fixing the same in some conspicuous part of such place of abode or business.

(2) When the person is an owner or occupier of any building or land, it shall not be necessary to name the owner or occupier in the document, and in the case of joint owners and occupiers it shall be sufficient to serve it on, or send it to, one of such owners or occupiers.

(3) Whenever in any bill, notice *form or other document* served or sent under this Act a period is fixed within which any tax or other sum is to be paid or any work executed, or anything provided, such period shall, in the absence from this Act of any distinct provision to the contrary, be calculated from the date of such service or sending.

Relation of occupier to owner

Recovery by occupier of sum leviable from owner.

332. If the occupier of any building or land makes on behalf of the owner thereof any payment for which, under this Act, the owner, but not the occupier, is liable such occupier shall be entitled to recover the same from the owner and may deduct the same from the rent then or thereafter due by him to the owner.

Obstruction of owner by occupier.

333. (1) If the occupier of any building or land prevents the owner from carrying into effect in respect thereof any of the provisions of this Act, the chairman may by an order require the said occupier to permit the owner, within eight days from the date of service of such order, to execute all such works as may be necessary.

(2) Such owner shall, for the period during which he is prevented as aforesaid, be exempt from any fine or penalty to which he might otherwise have become liable by reason of default in executing such works.

Execution of work by occupier in default of owner.

334. If the owner of any building or land fails to execute any work which he is required to execute under the provisions of this Act or of any rule, by-law, regulation or order made under it, the occupier of such building or land may:, with the approval of the chairman execute the said work, and shall be entitled to recover from the owner the reasonable expenses incurred in the execution thereof, and may deduct the amount thereof from the rent then or thereafter due by him to the owner.

Chairman's powers of entry and inspection

Power of entry to inspect, survey or execute the work.

335. The chairman or any person authorized by him in this behalf may enter into or on any building or land with or without assistants or workmen in order to make any inquiry, inspection, test, examination, survey, measurement or valuation or for the purpose of lawfully placing or removing pipes or meters, or to execute any other work which is authorized by the provisions of this Act or of any rule, by-law, regulation or order made under it, or which it is necessary for any of the purposes of this Act or in pursuance of any of the said provisions, to make or execute:

Provided that—

(*a*) except when it is in this Act otherwise expressly provided, no such entry shall be made between sunset and sunrise;

(*b*) except when it is in this Act otherwise expressly provided, no dwelling house, and no part of a public building used as a dwelling place shall be so entered without the consent of the occupier thereof, unless the said occupier has received at least six hours' previous notice of the intention to make such entry;

(*c*) sufficient notice shall be given in every case even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to women to remove to some part of the premises where their privacy may be preserved;

(*d*) due regard shall be paid, so far as may be compatible with the exigencies of the purpose of the entry, to the social and religious usages of the occupants of the premises.

Power of entry on lands adjacent works.

336. (1) The chairman or any person authorized by him in this behalf may with or without assistants or workmen enter on any land adjoining or within fifty yards of any work authorized by this Act or by any rule, by-law, regulation or order made under it, for the purpose of depositing

on such land any soil, gravel, stone, or other materials, or of obtaining access to such work, or for any other purpose connected with the carrying on thereof.

(2) The chairman or person authorized by him as aforesaid, shall before entering on any land under sub-section (1), give the owner or occupier three days' previous notice of the intention to make such entry and state the purpose thereof and shall, if so required by the owner or occupier, fence off so much of the land as may be required, for such purpose.

(3) The chairman shall not be bound to make any payment, tender or deposit before entering on any land under sub-section (1), but as little damage as may be shall be done and the chairman shall pay compensation to the owner or occupier of the land for such entry and for any temporary or permanent damage that may result therefrom.

(4) If such owner or occupier is dissatisfied with the amount of compensation paid to him by the chairman he may appeal to the council.

Inspection and stamping of weights and measures.

337. The chairman or any person authorized by him in this behalf may examine and test the weights and measures used in markets and shops in the municipality with a view to the prevention and punishment of offences relating to such weights and measures under Chapter XIII of the Indian Penal Code.

Power to enforce licensing provisions, orders, etc.

Consequences of failure to obtain licences, etc., or of breach of the same.

338. If, under this Act, or any rule, by-law or regulation made under it, the licence or permission of the council or chairman or registration in the municipal office is necessary for the doing of any act, and if such act is done without such licence or permission or registration, or in a manner inconsistent with the terms of any such licence or permision, then—

(*a*) the chairman may by notice require the person so doing such act to alter, remove, or, as far as practicable, restore to its original state the whole or any part of any property, movable or immovable, public or private, affected thereby, within a time to be specified in the notice; and further,

(*b*) if no penalty has been specially provided in this Act for so doing such act, the person so doing it shall be liable on conviction before a magistrate to a fine not exceeding fifty rupees for every such offence.

Case Law : Sec. 338 :—The argument that if the liability to take out licence is not treated as one imposed by any rule, by-law or regulation, there may be a difficulty in applying Sec. 338 even to cases where proper notification has been issued under Sec. 249 and that there will be no provision for punishment for disobeying is not sound because the necessity to take out licence when a proper notification is issued arises under the Act itself and section 338 which speaks of the act as well will apply. The Act imposes the

the liability subject to the condition about the notification prescribed in section 249. 42 M. L. J. 149.

Carrying on a hotel-keeper's business without a licence is an offence punishable under section 338. A prosecution under section 338 is a criminal prosecution in which a person is sought to be convicted. In order to sustain a conviction it must be shown that the accused violated a legal order which a public servant or a statutory body was authorised under law to pass.

It is open to the court to go into the validity or otherwise of the cancellation in a prosecution launched by the municipality under section 338. A distinction has to be drawn between the case of refusal of a licence asked for the doing of a thing and the cancellation of a licence which a person has properly obtained. In the case of a refusal of a licence for a bus it may be that the municipal chairman has some reason for refusing it and it would not be open to the court to consider whether the reasons were good or bad but if it is patent to the court that there could have been no reasons, the court, could come to the conclusion that the refusal amounted to not doing what is required by the Act but something which is outside of the Act and such refusal might be considered as *ultra vires*. In the case of a licence which has been granted and which is good for a period, it would be *ultravires* for the chairman of the councel to canc el it or suspend it not for something which the licensee did in contravention of the terms of the licence but for something which was unconnected with the licence. In such cases the court is not prevented by anything contained in the District Municipalities Act from holding that such an act was not within the ambit or within the scope of the powers vested in the chairman of the council by the Act and therefore the reason for doing such an act would not arise for consideration. [53 M. L. J. 633 (F.B.) ; 16 M. 230 ; 21 L. W. 280 ; 49 M. 888 ; 44 M. 156 ; 42 M.L.J. 149 ; 48 M, L. J. 132 ; 45 M. L. J. 731 ; REFERRED TO] 55 M. L. J. 566.

Under section 249 of the District Municipalities Act read with Schedule V. Cl. (*o*) any person who sells grain wholesale has to obtain licence. If he fails to do so he is liable to be punished under section 338. The accused was a commission agent who sold other people's goods and received remuneration by way of commission. *Held* that he was nevertheless a person who actually sold the grain and was liable to be punished under section 338 for failure to take out a licence.

The case of a mere crier or auctioneer who auctions the goods of another person in the latter's presence and acts as a mere agent for the purpose may stand on a different footing. 50 M.L.J. 54.

The offence charged is under section 338 of the Act and consists of using the rice-mill without the licence prescribed by any rule, bye-law or regulation made under the Act. Where the rules have been framed under a section of an Act it is not within the province of a criminal court to determine whether such rules have been validly framed, but that is a matter which should be left for dertermination in a civil court. 53 M.L.J. 633 (F.B.)

Time for complying with order and power to enforce in default.

339. (1) Whenever by any notice, requisition, or order under this Act, or under any rule, by-law or regulation made under it, any person is required to execute any work or to take any measures or do anything a reasonable time shall be named in such notice, requisition or order within which the work shall be executed, the measures taken, or the thing done.

(2) If such notice, requisition, or order is not complied with within the time so named the chairman may cause such work to be executed

or may take any measures or do anything which may, in his opinion, be necessary for giving due effect to the notice, requisition or order as aforesaid; and further,

(3) if no penalty has been specially provided in this Act for failure to comply with such notice, the said person shall be liable on conviction before a magistrate to a fine not exceeding fifty rupees for every such offence.

340. (1) The chairman may, subject to the provisions of *section 139*, recover any reasonable expenses incurred under section 339 from the person or any one of the persons to whom the notice, requisition or order was addressed, and may, in executing work or taking measures under section 339, utilize any materials found on the property concerned or may sell them and apply the sale-proceeds in or towards the payment of the expenses incurred.

Recovery of expenses from persons liable and limitation of liability of occupier.

(2) If the person to whom notice is given is the owner of the property in respect of which it is given, the chairman may (whether any action or other proceeding has been brought or taken against such owner or not) require the person, if any, who occupies such property, or any part thereof, under the owner, to pay to the municipal council, instead of to the owner, the rent payable by him in respect of such property,as it falls due, up to the amount recoverable from the owner under sub-section (1) or to such smaller amount as the chairman may think proper, and any amount so paid shall be deducted from the amount payable by the owner.

(3) For the purpose of deciding whether action should be taken under sub-section (2), the chairman may require any occupier of property to furnish information as to the sum paid by him as rent on account of such property and as to the name and address of the person to whom it is payable; and such occupier shall be bound to furnish such information.

(4) The provisions of this section shall not affect any contract made between any owner and occupier respecting the payment of any such expenses.

341. (1) When any person by reason of his receiving the rent of immovable property as agent, trustee, guardian, manager or receiver, or of his being agent, trustee, guardian, manager or receiver for the person who would receive the rent if the property were let to a tenant, would, under this Act, be bound to discharge any obligation imposed by this Act, or any rule, by-law, regulation or order made under it on the proprietor of the property and for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has, or, but for his own improper act or default, might have had in his hands funds belonging to the proprietor sufficient for the purpose.

Relief to agent and to trustees.

(2) The burden of proving the facts entitling a person to relief under this section shall lie on him.

(3) When any person has claimed and established his right to relief under this section, the chairman may give him notice to apply to the discharge of such obligation as aforesaid the first moneys which shall come to his hands on behalf or for the use of the proprietor; and should he fail to comply with such notice he shall be deemed to be personally liable to discharge such obligation.

Power of chairman to agree to receive payment of expenses in instalments.

342. Instead of recovering any such expenses as aforesaid in the manner provided under section 344, the chairman may, if he thinks fit, take an agreement from the person liable for the payment thereof, to pay the same in instalments of such amounts and at such intervals as will secure the payment of the whole amount due, with interest thereon at the rate of nine per centum per annum, within a period of not more than five years.

Payment of compensation etc., by and to the municipality.

Power of municipality to pay compensation.

343. In any case not otherwise expressly provided for in this Act, the chairman may, with the approval of the council, pay compensation to any person who sustains damage by reason of the exercise by any municipal authority, officer or servant of any of the powers vested in them by this Act or any other law, or by any rule, by-law, or regulation made under it.

Recovery of sum due as taxes.

344. All costs, damages, *penalties*, compensation charges, fees (other than school fees), expenses, rents (not being rents for lands and buildings demised by the municial council), contributions and other sums which under this Act or any other law or rules or by-laws made thereunder, or under any contract in respect of water-supply, *or drainage* made in accordance with this Act, the rules or by-laws are due by any person to the council, may, if there is no *special provision in this Act for their recovery* be demanded by bill as provided in the rules in Schedule IV and recovered in the manner provided *therein*.

Limitation for recovery of dues.

345. No distraint shall be made, no suit shall be instituted and no prosecution shall be commenced in respect of any sum due to the municipal council under this Act after the expiration of a period of three years from the date on which distraint might first have been made, a suit might first have been instituted, or prosecution might first have been commenced, as the case may be, in respect of such sum.

Case Law: Sec. 345:—Under this section an amendment of an assessment to tax made more than three years after the year for which it was intended to have effect cannot be carried into operation. Otherwise there is no limit of time to the orders

and mode of assessment. But the amendment of an assessment can be made at any time within three years so as to operate retrospectively. As to the inconvenience to big concerns like railway companies which have to produce a balance sheet and declare dividends inconvenience may exist, but, in the face of the section and the rules the inconvenience cannot prevent the operation of the Act and the rules thereunder. 57 M.L.J. 251.

Procedure in dealing with surplus sale-proceeds.

346. If any property, movable or immovable, is sold under the provisions of this Act, and if there is a surplus after the sum due to the municipal council and the costs have been deducted from the sale-proceeds, such surplus shall, if the owner of the property sold claims it within six months from the date of the sale, be paid to him by the chairman, but if no such claim is preferred within such time, the said surplus shall be credited to the municipal fund, and no suit shall lie for the recovery of any sum so credited.

Persons empowered to prosecute.

347. No person shall be tried for any offence against the provisions of this Act, or of any rule, or by-law made under it unless complaint is made by the police, or the chairman or by a person expressly authorized in this behalf by the council or the chairman within three months of the commission of the offence. But nothing herein shall affect the provisions of the Code of Criminal Procedure, *1898*, in regard to the power of certain magistrates to take cognizance of offences upon information received or upon their own knowledge or suspicion:

Provided that failure to take out a licence, obtain permission or secure registration under this Act shall, for the purposes of this section, be deemed a continuing offence until the expiration of the period, if any for which the licence, permission or registration is required and if no period is specified, complaint may be made at any time within twelve months from the commencement of the offence.

Case Law: Sec. 347:—A notice was served on a person under sections 146, 149 and 313 of the Act in connection with a latrine in June 1924. On 22nd October a fresh notice was sent. The failure to comply with it led to a prosecution, It was launched within 3 months after the second notice but more than 3 months after the first. The contention was that the prosecution was barred by limitation.

Held that there was nothing in the section prohibiting the issue of a second notice when no action was taken on the first and that prosecution was not barred by time under section 347. (49 M.L.J. 386 DISSENTED FROM.)

If a prosecution had been instituted on the first requisition and had failed or not been pressed other considerations might come in. 50 M.L.J. 557.

Imprisonment in default of payment and application of fines.

348. (1) In case any fine or costs imposed or assessed by a magistrate under this Act or under any rule or by-law made under it, shall not be paid, the magistrate may order the offender to be imprisoned in default of payment subject to all the restrictions, limitations and conditions imposed in sections 64 to 70 (both inclusive) of the Indian Penal Code.

(2) *Any fine, costs, tax or other sum imposed or assessed by a magistrate under this Act or under any rule or by-law made under it shall be recoverable by such magistrate under the Code of Criminal Procedure, 1898, as if it were a fine and the same shall on recovery be paid to the municipal council to be applied to the purposes of this Act.*

NOTES: **Sec. 348** :—The scope of sub-section (2) has been enlarged and all sums mentioned in the sub-section are recoverable under the Criminal Procedure Code.

Payment of compensation for damage to municipal property.

349. If, on account of any act or omission, any person has been convicted of an offence against the provisions of this Act or against any rule or by-law made under it and by reason of such act or omission damage has been caused to any property owned by or vesting in the municipal council, the said person shall pay compensation for such damage, notwithstanding any punishment to which he may have been sentenced for the said offence. In the event of dispute, the amount of compensation payable by the said person shall be determined by the court before whom he was convicted of the said offence on application made to him for the purpose by the chairman not later than three months from the date of conviction; and in default of payment of the amount of compensation so determined, it shall be recovered under a warrant from the said court as if it were a fine inflicted by him on the person liable therefor.

Legal proceedings.

Institution of suits against municipal authorities, officers and servants.

350. (1) No suit for damages or compensation shall be instituted against the municipal council, any muncipal authority, officer or servant, or any person acting under the direction of the same, in respect of any act done in pursuance or execution or intended execution of this Act or any rule, by-law, regulation or order made under it or in respect of any alleged neglect or default in the execution of this Act, or any rule, by-law, regulation, or order made under it until the expiration of one month after a notice has been delivered or left at the municipal office or at the place of abode of such officer, servant or person, stating the cause of action, the relief sought, and the name and the place of abode of the intending plaintiff; and the plaint shall contain a statement that such notice has been so delivered or left.

(2) Every such suit shall be commenced within six months after the date on which the cause of action arose or in case of continuing injury or damage during such continuance or within six months after the ceasing thereof.

(3) If any person to whom any notice is given under sub-section (1) tenders amends to the plaintiff before the suit is instituted, and if the plaintiff does not recover in any such action more than the amount so tendered he shall not recover any costs incurred after such tender by

the person to whom such notice has been given, and the defendant shall be entitled to costs as from the date of tender.

(4) Where the defendant in any such suit is the chairman, a municipal officer or servant, payment of the sum, or any part of any sum, payable by him in, or in consequence of, the suit whether in respect of costs, charges, expenses, compensation for damages or otherwise may be made, with the sanction of the council, from the municipal fund.

Case Law : Sec. 350 :—A suit for the refund of the tax paid under protest to the municipal council more than six months before the action was brought is not barred under section 350 of the District Municipalities Act of 1920, the suit being not one for damages or compensation within the meaning of section 350 cl. (1) of the Act.

The section is evidently modelled upon the provision of section (1) of the Public Authorities Protection Act 1893 that is 56 and 57 Vict. 61. [(1825) 4 B. and C. 200=107 E.R. 1033; (1871) 6 Q B 724; (1883) 11 Q B D 788; (1889) 1 Q B 693; (1905) 2 K.B. 1, (1916) 1 A.C. 242; (1918) A.C. 563 REFERRED to.] 56 M.L.J. 525.

See also paragraph 700 of Halsbury's Laws of England volume 23 page 246.

The notice required under this section is not necessary where the suit is for an injunction. 29 M. 539.

A municipal council sent a notice to the plaintiff stating that he had no right to a certain piece of land and if he had any he should get the same declared by a court of law. Hefiled a suit for a declaration of title to the piece of land. No notice of this suit was given to the municipality. It was held that it was not necessary to give notice of this suit to the municipality in asmuch as it cannot be treated as a suit "on account of any act done by the municipal council" and consequently did not come within the purview of section 261 of Act IV of 1884. Though the words used in this section corresponding to section 261 of Act IV of 1884 are slightly different, the effect seems to be the same. 22 L.W. 671.

Provision respecting institution, etc., of civil and criminal actions and obtaining of legal advice.

351. The chairman may—

(*a*) take, or withdraw from, proceedings against any person who commits—

(i) any offence against this Act, the rules, by-laws or regulations;

(ii) any offence which affects or is likely to affect any property or interest of the municipal council or the due administration of this Act;

(iii) any nuisance whatsoever;

(*b*) compound any offence against this Act, the rules, by-laws or regulations which may by rules made by the *Local Government* be declared compoundable;

(*c*) with the approval of the council take, withdraw from or compromise proceedings for the recovery of expenses or compensation claimed to be due to the municipal council;

(*d*) with the approval of the council withdraw or compromise any claim against any person in respect of a penalty payable under a contract entered into with such person by the chairman;

(*e*) with the approval of the council, defend any suit or other legal proceeding brought against the municipal council or against any municipal authority, officer or servant, in respect of anything done or omitted to be done in its or his official capacity;

(*f*) with the approval of the council compromise any claim, suit or legal proceedings brought against the council or against any municipal authority, officer or servant, in respect of anything done or omitted to be done as aforesaid;

(*g*) with the approval of the council, institute and prosecute any suit or withdraw from or compromise any suit or claim, which has been instituted or made in the name of the municipal council or of the chairman;

(*h*) obtain such legal advice and assistance as he may from time to time think it necessary or expedient to obtain, or as he may be desired by the council to obtain, for any of the purposes mentioned in the foregoing clauses of this section or for securing the lawful exercise or discharge of any power or duty vesting in or imposed upon any municipal authority or municipal officer or servant.

Case Law: Sec. 351 :—Where a sanitary inspector was expressly authorised by the chairman to lodge a complaint for a certain offence coupled with another offence in respect of which he had no authorisation, the prosecution and conviction for the offence not so authorised was held to be illegal. 11 L.W. 120=55 I.C. 599.

Power of election authority to defend himself if sued.

351-A. *The election authority may defend himself if sued or joined as a party in any proceeding relating to the preparation or publication of electoral rolls or to the conduct of elections, as the case may be, and the expenses incurred by the election authority in so doing shall be payable from the municipal fund.*

NOTES. **Sec. 351-A** :—This section has been enacted by reason of the fact that a new "election authority" is constituted under the amending Act.

Indemnity to the Government, Collector, revenue divisional officer, municipal authorities, officers and agents.

352. No suit shall be maintainable against *the Local Government, the district collector, the revenue divisional officer or* any municipal chairman, officer or servant or any person acting under the direction of any municipal chairman, officer or servant, or of a magistrate, in respect of anything in good faith done under this Act or any rule, by-law, regulation or order made under it.

Case Law: Sec. 352 :—Section 352 of the District Municipalities Act protects the chairman from suits in respect of acts done in his official capacity but there is nothing in the section to preclude a suit being brought to restrain him from doing a threatened wrongful act to the detriment of another. The section is a bar to suits only in respect of acts done and not acts threatened. 44 M.L.J. 23=16 L. W. 970=A. I. R. 1923 Mad. 207

Liability of chairman and members for loss, waste, or misapplication.

353. (1) The chairman and every councillor shall be liable for the loss, waste, or misapplication of any money or other property owned by or vested in the municipal council, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct, and a suit for compensation may be instituted against him by the council with the previous sanction of the *Local Government* or by *the Secretary of State for India in Council.*

(2) Every such suit shall be commenced within three years after the date on which the cause of action arose.

Sanction for prosecution of chairman or councillor.

353-A. *When the chairman or any councillor is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no court shall take cognizance of such offence except with the previous sanction of the Local Government.*

NOTES. **Sec. 353-A** :—This is a new section which makes provision for the sanction of Government being obtained before a prosecution is started against a chairman or any councillor for actions done in their official capacity. Section 353 provides for sanction being obtained in respect of civil suits. It was doubtful whether under the existing criminal law such sanction was necessary. The doubt has been removed by the amendment.

Assessments, etc., not to be impeached.

354. (1) No assessment or demand made, and no charge imposed, under the authority of this Act shall be impeached or affected by reason of any clerical error or by reason of any mistake (*a*) in respect of the name, residence, place of business or occupation of any person, or (*b*) in the description of any property or thing, or (*c*) in respect of the amount assessed, demanded or charged: provided that the provisions of this Act have been, in substance and effect, complied with. And no proceedings under this Act shall, *merely* for defect in form, be quashed or set aside by any Court of Justice.

(2) No suit shall be brought in any court to recover any sum of money collected under the authority of this Act or to recover damages on account of any assessment, or collection of money made under the said authority: provided that the provisions of this Act have been, in substance and effect, complied with.

(3) No distraint or sale under this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any error, defect or want of form in the bill, notice, schedule, form, summons, notice of demand, warrant of distraint, inventory, or other proceeding relating thereto if the provisions of this Act, the rules and by-laws have in substance and effect been complied with.

Provided that every person aggrieved by any irregularity may recover satisfaction for any special damage sustained by him.

Case Law : Sec. 354 :—A municipal council cannot impose charges not under the authority of the Act and then when a suit is filed for their recovery, allot the money thus unlawfully obtained to some demand alleged to be under the authority of the Act and plead that no suit lies.

Large powers are conferred upon local bodies, upon the strict understanding that they observe the conditions of the statute to which they owe their origin and to allow them to levy taxes upon private persons without such strict compliance would be a grave scandal. The courts have no power to relieve local bodies from the obligations imposed upon them.

The levy of profession tax and the levy of companies tax not being made under the authority of the Act, the jurisdiction of the civil courts is not ousted by the section 354. 49 M.L.J. 542.=22 L.W. 619=A. I. R. (1926) Mad. 152 (2)

Sec. 354 (2) :—The plaintiff was a resident of Hyderabad and had a house within the municipal limits of Srirangam where he came and spent a portion of his vacation. He was called upon to pay profession tax for carrying on money-lending business at Srirangam. The same was paid under protest. The contention was raised that he did not reside within the municipal limits of Srirangam for 60 days in the half year to be assessed. It was admitted that during the half-year for which tax was levied the plaintiff did come and reside at his house at Srirangam for some days.

Held that he was a person liable to be assessed, in case he came under section 95 of the District Municipalities Act.

The term "residence" is defined in section 3, Cl. 25 of the Act and the plaintiff must therefore be deemed to reside within the limits of the Srirangam municipality. *Held* also that assuming that he ought to have resided for 60 days in the half-year for which he was assessed section 354 (2) of the Act read with clause 28 of Schedule IV barred the suit. (10 L. W. 592 FOLLOWED). 50 M.L.J.77=24 L.W. 218.

Where no notice of the enhanced assessment was served upon the assessee the right of the municipality to collect tax is taken away and section 354 (2) is no bar to a suit to recover the excess tax collected. A.I.R. 1928 Mad. 348=106 I.C, 529.

The sub-section is intended to provide real protection to the chairman and the council and its effect is that, where they have proceeded in the matter of assessment in accordance with the Act, no suit lies against them even if their actual decision is wrong. A disappointed assessee certainly cannot escape the bar against his suit by describing the action of the council or the chairman as arbitrary or by using any other strong language. A.I.R. 1928 Mad. 208=106 I. C. 659.

Police.

Duties of police officers.

355. (1) It shall be the duty of every police officer—

(*a*) to communicate without delay to the proper municipal officer any information which he receives of the design to commit or of the commission of any offence under this Act or any rule, by-law or regulation made under it,

(*b*) to assist the chairman or any municipal officer or servant reasonably demanding his aid for the lawful exercise of any power vesting in the chairman or in such municipal officer or servant under this Act, or any such rule, by-law or regulation, and

(c) to assist any person employed in the collection of tolls in the case of resistance to the lawful authority of such person; and for all such purposes he shall have the same power which he has in the exercise of his ordinary police duties.

(2) Any police officer who omits or refuses to perform any duty imposed on him by this Act, shall be deemed to have committed an offence under section 10 or under section 44 of the Madras District Police Act, 1859.

Power of police officer to arrest persons.

356. (1) If any police officer sees any person committing an offence against any of the provisions of this Act or of any rule or by-law made under it, he shall, if the name and address of such person are unknown to him, and if the said person on demand declines to give his name and address, or gives a name and address which such officer has reason to believe to be false, arrest such person.

(2) No person arrested under sub-section (1) shall be detained in custody—

(a) after his true name and address are ascertained, or

(b) without the order of a magistrate for any longer time, not exceeding twenty-four hours from the hour of arrest, than is necessary for bringing him before a magistrate.

Exercise of powers of police officer by municipal servants.

357. The *Local Government* may empower any municipal servant or any class of municipal servants to exercise the powers of a police officer for the purposes of this Act and of the Madras Towns Nuisances Act, 1889.

Miscellaneous.

Application of term 'public servant' to municipal offcers, agents and sub-agents.

358. Every municipal officer or servant, every contractor or agent for the collection of any municipal tax, toll, fee or other sum due to the municipal council and every person employed by any such contractor or agent for the collection of such tax, toll, fee or sum shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Prohibition against obstruction of municipal authorities, servants and contractors.

359. No person shall obstruct or molest the council, the chairman, any councillor, or any person employed by the municipal council or any person with whom the chairman has entered into a contract on behalf of the council, in the performance of their duty or of anything which they are empowerd or required to do by virtue or in consequence of this Act or of any by-law, rule, regulainto or order made under it.

Prohibition against removal of mark.

360. No person shall remove any mark set up for the purpose of indicating any level or direction incidental to the execution of any work authorized by this Act or by any by-law, rule or order made under it.

Prohibition against removal or obliteration of notice.

361. No person shall, without authority in that behalf, remove, destroy, deface, or otherwise obliterate, any notice exhibited by, or under the orders of the council or the chairman.

Prohibition against unauthorized dealings with public place or materials.

362. No person shall, without authority in that behalf, remove, earth, sand or other material or deposit any matter or make any encroachment from, in or on any land vested in the municipal council, or river, estuary, canal, back-water or water-course (not being private property) or in any way obstruct the same.

Case Law : Sec. 362 :—Trees come within the expression "other material" in this section. To exclude trees growing upon the land vested in the municipal council from this section would enable any one to cut and remove trees from municipal land and plead that he has not contravened the section although, according to the words immediately preceding, to remove a basket of earth or a load of sand from the foot of such trees would be an offence. A. I. R. 1930 Mad. 861.

Local Government's power of delegation.

Delegation of powers by the Local Government.

363. The *Local Government* may by notification authorize any person to exercise any one or more of the powers vested in *them* by this Act, *except the powers mentioned in Chapters II and III, the power to determine the amount of contribution under section 156, the power to make rules under sub-section (2) of section 77-A and sections 303 and 305 and the power to sanction prosecution under 353-A* and may in like manner withdraw such authority.

NOTES : **Sec. 363** :—In the section as amended, the powers of delegation are more limited.

Transitional and transitory provisions.

Passing of property and rights to municipality as re-constituted.

364. All property, all rights of whatever kinds used, enjoyed, or possessed by, and all interests of whatever kind owned by, or vested in or held in trust by, or for a municipal council, as constituted under the Madras District Municipalities Act, 1884, as well as all liabilities legally subsisting against the said council shall pass to the council as constituted under this Act.

Commencement of Act.

365. This Act shall come into force on such date as the *Local Government* may by notification direct :

Provided that the power to make or approve rules, by-laws and regulations may be exercised at any time after the publication of the

assent of the Governor-General under section 81 of the Government of India Act, 1915, and that any election or appointment of chairman, or councillors under this Act, or under the rules made under this Act, may be held or made at any time after such publication, but no such election or appointment shall take effect until the commencement of the Act.

Continuance in office of present chairman and councillors.

366. In their application to the term of office and the election, and appointment of councillors and the chairman elected or appointed for the first time after the commencement of this Act, the provisions of this Act shall be read subject to the following modifications:—

(*a*) The term of office of the chairmen and of the councillors, holding office under the Madras District Municipalities Act, 1884, shall expire on such date or dates after the commencement of this Act as the *Local Government* shall determine and the *Local Government* shall make appointments and cause arrangements for election to be made under this Act so that the newly elected and appointed councillors may come into office on the date fixed for the retirement of the former councillors and the chairman elected or appointed under this Act on the date fixed for the retirement of the chairman elected or appointed or ex-officio under the Madras District Municipalities Act, 1884, and until they so come into office the chairman and the councillors appointed or elected or ex-officio under the Madras District Municipalities Act, 1884, shall have all the powers and be subject to all the duties respectively of the chairman and councillors under this Act; and

(*b*) on or as soon as may be after the constitution of the council under this Act, a meeting shall be held on a day and at a time fixed by the chairman, and if not held on that day, shall be held on some subsequent day fixed by the chairman—

(i) for ascertainment by lot (or if the *Local Government* so direct otherwise than by lot) of one-third the number of elective seats to be vacated at noon on the first day of November 1921 and of one-third more such seats to be vacated at noon on the first day of November 1922 and the councillors elected for the total number of seats so ascertained or the councillors elected in their places in casual vacancies shall hold office until the first day of November 1921 or the first day of November 1922 as the case may be and the remaining elected councillors shall continue in office until the first day of November 1923; and

(ii) for the election of a chairman by those councils on whom this privilege has been conferred by the *Local Government*.

Procedure for recovery of arrears of taxes, etc.

367. All arrears of taxes or other payments by way of composition for a tax or due for expenses or compensation or otherwise due to a municipal council at the time this Act comes into force may be recovered as though they had accrued under this Act.

Special provision in the case of newly constituted and re-constituted municipal councils.

368. (*1*) *Notwithstanding anything contained in this Act, when a municipality is constituted for the first time, the Local Government may appoint a special officer to exercise the powers, discharge the duties and perform the functions of the municipal council and its chairman.*

(*2*) *The special officer shall cause arrangements for election to be made so that the newly elected councillors may come into office on a day within six months from the date of publication of the notification under sub-section* (*3*) *of section 4 declaring the area to be a municipality.*

(*3*) *The special officer shall exercise the powers, discharge the duties and perform the functions of the municipal council until the council has been constituted, and of the chairman until a chairman has been elected by the council.*

(*4*) *As soon as may be after the constitution of the council, a meeting of the council shall be held on a day and at a time fixed by the special officer for the election of its chairman. If at such meeting no chairman is elected, a fresh election shall be held on such day and at such time as may be fixed by the special officer.*

(*5*) *The term of office of the councillors or of the councillors elected in their places at casual vacancies shall expire at the end of three years if the day referred to in sub-section* (*2*) *is the first day of November and in other cases at the end of three years from the first day of November immediately preceding such day.*

(*6*) *The provisions of sub-sections* (*1*) *to* (*5*) *shall apply, save as otherwise provided in this Act and, so far as may be, to all cases of reconstitution of municipal councils.*

(*7*) *Where the number of seats on a municipal council is increased by or in consequence of a notification under sub-section* (*1*) *of section 7, the councillors elected for the additional seats or the councillors elected in their places at casual vacancies shall hold office until the date on which the councillors elected to the original seats at the ordinary elections immediately preceding will vacate office.*

Adjudication of disputes between local authorities.

369. (1) *When a dispute exists between a council and one or more than one other local authority in regard to any matters arising under the provisions of this or any other Act and the Local Government are of opinion that the local authorities concerned are unable to settle it amicably among themselves, the Local Government may take cognizance of the dispute, and*

(*a*) *decide it themselves, or*

(*b*) *refer it for inquiry and report to an arbitrator or a board of arbitrators, or to a joint committee constituted under section 26 for the purpose.*

(2) The report referred to in clause (b) of sub-section (1) shall be submitted to the Local Government who shall decide the dispute in such manner as they deem fit.

(3) The decision of the Local Government under clause (a) of sub-section (1) or under sub-section (2) as the case may be, shall be final and binding on each of the disputing local authorities.

NOTES : **Sec. 369** :—This section provides for adjudication of disputes between local authorities. The Local Government may themselves decide the dispute or refer the matter to arbitrators or to a joint committee ; in the latter case the report will be submitted to the Government who will pass orders in the matter and such orders shall be final and binding on the local authorities concerned.

SCHEDULE I.

ENACTMENTS REPEALED.

(See section 2.)

Year. (1)	Number. (2)	Short title. (3)	Extent of repeal. (4)
1884	IV	The Madras District Municipalities Act, 1884	The whole.
1897	III	The Madras District Municipalities (Amendment) Act, 1897.	Do.
1899	I	The Madras District Municipalities (Amendment) Act, 1899.	Do.
1907	II	The Madras Hill Municipalities Act, 1907.	Do.
1909	V	The Madras District Municipalities (Amendment) Act, 1909.	Do.
1913	III	The Madras District Municipalities and Local Boards (Amendment) Act, 1913.	Sections 2, 3 and 4.
1914	VIII	The Madras Decentralization Act, 1914.	So much of the schedule as relates to the Madras District Municipalities Act, 1884.
1916	IV	The Madras District Municipalities (Amendment) Act, 1916.	The whole.

SCHEDULE II.

LIST OF HILL STATIONS.

[See section 3 (10).]

Ootacamund, the Nilgiri district.
Coonoor, the Nilgiri district.
Kodaikanal, Madura district.

SCHEDULE III.

RULES REGARDING PROCEEDINGS OF THE COUNCIL.

[See section 25.]

MODE OF TRANSACTING BUSINESS.

1. The municipal council shall provide an office and the council shall meet therein for the transaction of business at least once in every month, upon such days and at such times as it may arrange and also at other times as often as a meeting shall be called by the chairman:

Provided that no meeting shall be held on a public holiday.

Explanation.—The expression "public holiday" includes Sundays and any other day declared by the Local Government by notification in the Fort St. George Gazette, to be a public holiday.

2. (*1*) *No meeting shall be held unless notice of the day and time when the meeting is to be held and of the business to be transacted thereat has been given at least three clear days before the day of the meeting.*

(*2*) *In cases of urgency, the chairman may convene a meeting on giving shorter notice than that specified in sub-rule* (I)

3. (*1*) *The chairman shall, on the requisition in writing of not less than one-third of the members then on the council, convene a meeting of the council, provided that the requisition specifies the day (not being a public holiday as defined in the Explanation to rule 1) when and the purpose for which the meeting is to be held. The requisition shall be delivered at the municipal office during office hours to the chairman, secretary, manager or any other person who may then be in charge of the office at least ten clear days before the day of the meeting.*

(*2*) *If the chairman fails within forty-eight hours from the delivery of such requisition to call a meeting on the day specified therein or within three days thereafter, the meeting may be called by the members who signed the requisition on giving the notice provided for in sub-rule (1) of rule 2 to the other members of the council.*

4. All meetings of the council shall be open to the public: provided that the presiding member may and at the request of the council shall in any particular case, for reasons to be recorded in the minute book kept under rule 9, direct that the public generally, or any particular person, shall withdraw.

5. All questions which may come before the council at any meeting shall be decided by a majority of the members present and voting at the meeting and, in every case of equality of votes, the presiding member shall have *and exercise* a second or casting vote.

6. No business shall be transacted at a meeting unless there be present at least six members or, if the number of members then on the council exceeds sixteen, at least one-third of that number.

7. If within half an hour after the time appointed for a meeting a quorum is not present, the meeting shall stand adjourned, unless all the members present agree to wait longer.

8. No resolution of the council shall be modified or cancelled within three months after the passing thereof except at a meeting specially convened in that behalf and by a resolution of the council supported by not less than one-half of the sanctioned number of members.

9. Minutes of the proceedings at each meeting of the council shall be drawn up and entered in a book to be kept for that purpose; and shall be signed by the *presiding member* or in his absence by some one of the members present thereat; and the said minutes shall, at all reasonable times and without charge, be open at the municipal office to the inspection of any person who pays any tax under this Act in the municipality.

10. Within three days of the date of the meeting, a copy of the minutes of the proceedings at such meeting shall be forwarded by the chairman to the Collector of the district wherein the municipality is situated, for publication at the cost of the municipal fund, in the district gazette, in English and in a vernacular language of the district: provided that the chairman shall immediately submit to the said Collector any minute of dissent that may be forwarded to him within forty-eight hours of the meeting by any councillor.

11. The chairman shall have the custody of the proceedings and records of the council and may grant copies of any such proceedings and records on payment of such fees as the council may, by general or special order, determine. Copies shall be certified by the chairman as provided in section 76 of the Indian Evidence Act, 1872, and copies so certified may be used to prove the records of the council in the same manner as they may, under sub-section (5) of section 78 of the said Act, be used to prove the proceedings of that body.

12. The proceedings of every committee appointed by the council shall be recorded in writing and submitted to the council.

13. [*Omitted*]

SCHEDULE IV

TAXATION AND FINANCE RULES

PART I.—TAXATION RULES

[See section 124]

Definition of tax.

1. In these rules 'tax' includes payment due by way of composition for a tax.

Provisions common to taxes in general.

2. (1) *The chairman shall prepare and keep assessment books in such form as may be prescribed showing the persons and property liable to taxation under this Act.*

(2) *The assessment books and where detailed particulars relating to any assessment are kept in separate records, the portion thereof containing such particulars shall be open at all reasonable times and without charge to inspection by any person who pays any tax to the municipality or his authorized agent and such person or agent shall be entitled to take extracts, free of charge, from the said books and records.*

(3) *The account books of the council shall be open without charge to inspection by any person who pays any tax to the municipality or his authorized agent on a day or days in each month to be fixed by the council.*

3. *The chairman shall, save as otherwise provided in this Act, determine the tax to which each property or person is liable :*

Provided that in the case of taxes payable by the chairman the original assessment shall be made by the revenue divisional officer or if the revenue divisional officer is also the chairman, by the council.

4. (1) *If at any time it appears to the council that any person or property has been inadequately assessed or inadvertently or improperly omitted from the assessment books relating to any tax, or that there is any clerical or arithmetical error in the said books, it may direct the chairman to amend the said books in such manner as it deems just or necessary :*

Provided that no such direction shall be given where it involves an increase in the assessment, unless the person concerned shall have been afforded a reasonable opportunity to show cause to the council why the assessment books should not be amended as proposed.

(2) *Such amendment shall be deemed to have taken effect on the earliest date, either in the current half-year or in the two half-years immediately preceding it, on which the circumstances justifying the amendment existed.*

5. (i) The chairman shall give to every person making payment of a tax a receipt therefor signed by him or by some person duly authorized by him in that behalf.

(2) Such receipt shall specify—

(*a*) the date of the grant thereof;

(*b*) the name of the person to whom it is granted;

(*c*) the tax in respect of which payment has been made;

(*d*) the period for which payment has been made; and

(*e*) the amount paid.

Assessment of the property tax.

6. *The value of any land or building for purposes of the property tax shall be determined by the chairman:*

Provided that the value of any land or building the tax for which is payable by the chairman shall be determined by the revenue divisional officer or, if the revenue divisional officer is also the chairman, by the council.

7. *The chairman shall enter the annual or capital value of all lands and buildings determined by him and the tax payable thereon in assessment books to be kept for the purpose at the municipal office. Such books shall record the following particulars, in so far as they can be ascertained, with regard to each assessable item :—*

(*a*) *the name of the owner ;*

(*b*) *the name of the occupier ;*

(*c*) *the designation, if any, of the item ;*

(*d*) *the name of the ward and street, if any, in which it is situated, and any survey or other number which it bears ;*

(*e*) *the annual or capital value, as the case may be ; and*

(*f*) *the amount of the tax payable.*

8. (*1*) *The assessment books shall be completely revised by the chairman once in every five years.*

(*2*) *The chairman may amend the assessment books at any time between one general revision and another by inserting therein or removing therefrom any property or by altering the valuation of any property or the amount of tax. Such amendment shall be deemed to have taken effect on the first day of the half-year in which it is made :*

Provided that when the amendment is made in any half-year after the demand notice for that half-year has been issued, it shall have effect only from the succeeding half-year.

9. *When assessment books have been prepared for the first time and whenever a general revision of such books has been completed, the chairman shall give public notice stating that revision petitions will be considered if they reach the municipal office within a period of sixty days from the date of such notice in the case of the Government, a railway administration or a company, and of thirty days from the said date in other cases. The notice*

shall be affixed to the notice-board of the municipal office and on the same day be published in the municipality by beat of drum.

10. *In every case in which, between one general revision and another, the chairman assesses any property for the first time or increases the assessment on any property otherwise than in consequence of a general enhancement of the rate at which the property tax is leviable, the chairman shall intimate by a special notice to the owner or occupier of such property that a petition for revising the assessment will be considered if it reaches the municipal office within sixty days from the date of service of such notice in the case of the Government, a railway administration or a company, and within thirty days from the said date in other cases.*

11. *Any person may, at any time, not being less than thirty days before the end of a half-year, move the chairman by revision petition to reduce the tax to which he is liable for the forthcoming half-year on the ground that the annual or capital value of the property in respect of which the tax is imposed has decreased since the assessment of the property was last made or revised.*

12. *No petition under rule 9, 10 or 11 shall be disposed of unless the petitioner has been given a reasonable opportunity to appear either in person or by authorized agent and to represent his case.*

13. Immediately after the disposal of a revision petition the chairman shall inform the petitioner or his authorized agent, either orally or in writing, of the orders passed thereon, shall direct him to pay the amount fixed on revision within fifteen days *after the date of receipt of such intimation* or, if the amount is not due, within fifteen days from the date on which it becomes due, and shall, if necessary, cause the assessment books to be corrected.

14. (*1*) *On the establishment of a municipality assessments shall have effect from the date specified in the notification under section 80.*

(*2*) *A general revision shall be deemed to have taken effect on the first day of the half-year following that in which the notice under rule 9 is published.*

(*3*) *Any corrections in the assessment books made by the chairman under rule 13 or 27 shall be deemed to have effect on the first day of the half-year to which the assessment which was sought to be revised or which was appealed against relates.*

Explanation.—The levy of a new class of property tax or an enhancement in the rate at which any class of property tax is leviable is no amendment or revision within the meaning of this rule, and shall have effect from the date fixed for the levy or enhancement.

15. *The first payment of tax shall, save as provided in rule 13, be made within thirty days of the date or day specified in rule 14.*

Assessment of the profession tax.

16. (*1*) *The classes into which companies and persons shall, for the purposes of assessment to the profession tax, be divided, and the maximum half-yearly tax leviable on each class shall be as follows :—*

Class		Half-yearly income. RS.		Half-yearly income. RS.	Maximum half-yearly tax. RS.	A.
I	More than	21,000	...	...	275	0
II	,, ...	18,000	but not more than	21,000	225	0
III	,, ...	12,000	,,	18,000	150	0
IV	,, ...	9,000	,,	12,000	85	0
V	,, ...	6,000	,,	9,000	55	0
VI	,, ...	4,200	,,	6,000	28	0
VII	,, ...	3,000	,,	4,200	20	0
VIII	,, ...	1,800	,,	3,000	10	0
IX	,, ...	1,200	,,	1,800	6	0
X	,, ...	600	,,	1,200	3	0
XI	,, ...	300	,,	600	1	8
XII	,, ...	150	,,	300	0	8

(*2*) *The council shall determine the tax leviable on each class subject to the maximum specified in sub-rule* (*1*) *:*

Provided that the proportion which the tax on any class bears to the minimum income of that class shall in no case be smaller than the proportion which the tax on any lower class bears to the minimum income of such lower class.

(*3*) *The council may exempt any one or more of the classes in sub-rule* (*1*) *from liability to profession tax, but no class shall be exempted from liability when any lower class is liable to tax.*

17. *A company or person shall be deemed to have transacted business and a person shall be deemed to have exercised a profession, art, or calling or held an appointment within a municipality if such company or person has an office or place of employment within such municipality.*

18. (*1*) *Where a company or person transacts business in any half-year exclusively in the area of a single municipality, the income of such company or person from the transaction of such business shall, for the purpose of levying profession tax under this Act during the half-year, be deemed to be—*

(*a*) *where income-tax is assessed on such company or person under the Indian Income-tax Act, 1922, for the year comprising the half-hear, one-half of the amount at which the profits and gains of such business are computed under section 10 of the Indian Income-tax Act, 1922, for the purpose of assessing the income-tax ; and*

(*b*) *where the amount of the said profits and gains is not ascertainable or where such company or person is not assessed to income-tax, such percentage as the Local Government may, subject to the approval of the Legislative*

Council, prescribe, of the turnover of the business transacted in the area of the municipality during the half-year or where this is also unascertainable, during the corresponding half-year of the previous year.

(2) *Where a company or person transacts business partly in the area of a municipality and partly outside such area, the income of such company or person from the transaction of business in the area of the municipality shall, for the purpose of levying profession-tax under this Act, be deemed to be the percentage prescribed under clause* (b) *of sub-rule* (1) *of the turnover of the business transacted in such area during the half-year or the corresponding half-year of the previous year, as the case may be.*

(3) *For the purposes of clause* (b) *of sub-rule* (1) *and sub-rule* (2), *the turnover of business in any municipality means the aggregate money value of the goods produced, manufactured, purchased or sold or of any other business transacted in such municipality.*

Explanation.—In determining the turnover of business under this sub-rule—

(a) *where the delivery of any goods on account of any purchase made by any company or person and the delivery on account of the sale thereof by the same company or person are both effected in the Presidency of Madras, only the latter transaction shall be taken into account ;*

(b) *where the delivery of any goods on account of any purchase made by any company or person is effected in any place outside the said Presidency and the delivery on account of the sale thereof by the same company or person is effected in any place in the said Presidency, the latter transaction shall be taken into account ; and*

(c) *where the delivery of any goods on account of any purchase made by any company or person is effected in any place in the said Presidency and the delivery on account of the sale thereof by the same company or person is effected in any place outside the said Presidency, the former transaction shall be taken into account.*

19. (1) *If, in the opinion of the chairman, profession tax is due from any company or person for any half-year, he shall serve a notice on such company or person either in that half-year or in the succeeding half-year requiring the company or person to furnish within such period, not being less than thirty days as may be specified in the notice, a return in the prescribed form showing the income on the basis of which, according to such company or person, it or he is liable to be assessed to profession tax for the half-year in question. Thereupon it shall be open to such company or person to submit a return showing the income derived by it or him during the half-year for which profession tax is claimed or for the corresponding half-year of the previous year and produce any evidence on which the company or person may rely in support of the return made.*

(2) *If a return is made as required under sub-rule* (1) *and the chairman is satisfied that it is correct and complete, he shall levy the profession tax from such company or person on the basis of such return.*

Explanation.—In cases not falling under clause (b) of sub-rule (1) or under sub-rule (2) of rule 18, if the company or person produces the notice of demand of income-tax served on it or him under section 29 of the Indian Income-tax Act, 1922, for the year comprising the half-year in question, the chairman shall be bound to take one-half of the income mentioned in such notice of demand as the income derived from the sources on which profession tax is leviable under this Act, as the income on the said sources for the purposes of levying profession tax.

(3) If no return is made as required under sub-rule (1) or if the chairman is satisfied that any return so made is incorrect or incomplete, the chairman shall assign to the company or person the class in the scale appropriate to the half-yearly income of such company or person as estimated by him.

(4) The chairman may, when classifying any company or person under sub-rule (3), do so on general considerations with reference to the nature and reputed value of the business transacted, the size and rental of residential and business premises, the quantity and number of articles dealt with, the number of persons employed and the income-tax paid to Government.

(5) The chairman shall not be entitled to call for the accounts of any company or person.

Maximum rates of tax on carriages and animals.

(See section 98,)

20. (1) The tax on carriages and animals shall be levied at rates not exceeding the following :—

Tax on carriages and animals.	*Maximum half-yearly tax.* RS.	A.
For every motor or steam vehicle with metal tyres constructed to carry two tons or more ...	100	0
Additional charge for each trailer ...	50	0
For every motor or steam vehicle with rubber tyres constructed to carry two tons or more ...	75	0
Additional charge for each trailer ...	50	0
For every motor or steam vehicle constructed to carry one ton or less than two tons ... For every tramcar, motor bus or charabanc constructed to carry ten or more persons ...	50	0
For every four-wheeled motor vehicle constructed to carry less than ten persons and more than three persons ...	25	0
For every four-wheeled motor vehicle constructed to carry three or less persons ...	20	0
For every four-wheeled vehicle constructed to be drawn by one or more animals.	10	0
For every two wheeled vehicle constructed to be drawn by one or more animals ...	5	0
For every motor tricycle and every motor bicycle with side-car ...	15	0
For every motor bicycle without side car ...	10	0
For every other bicycle or tricycle ...	2	0
For every other carriage not being a child's perambulator or go-cart ...	3	0
For every elephant ...	12	0

Tax on carriages and animals.		Maximum half-yearly tax. RS.	A.
For every camel	...	6	0
For every horse or mule not under twelve hands	...	6	0
For every horse or mule under twelve hands	...	2	0
For every bullock or bull	...	1	0
For every male buffalo	...	1	0
For every ass	...	0	8
For every dog	...	0	8
For every pig	...	0	8
For every goat	...	0	8

(2) *If, within the half-year, a person replaces any carriage or animal by another carriage or animal falling under the same class in the table given in sub-rule (1) the said person, in case the replacement was due to the destruction of the carriage or the death of the animal and if he had possession, custody or control of the carriage or animal so replaced at the time of its destruction or death, shall not be liable to more than one payment of tax in the same municipality and the amouut of such payment shall be regulated by the aggregate number of days for which he has kept such carriages and animals during the half-year.*

(3) [*Omitted.*]

Rates of tolls.

(See section 110)

21. (1) Tolls shall be levied at rates not exceeding the following:—

		RS.	A.
On every four-wheeled *steam or* motor vehicle constructed to carry less than ten persons	...	1	0
On every other steam or motor four-wheeled vehicle	...	2	0
On every steam or motor lorry	...	*2*	0
On every motor tricycle or motor bicycle with side-car	...	0	8
On every motor bicycle with side-car	...	0	6
On every other bicycle or tricycle	...	0	3
On every other carriage	...	0	4
On every cart	...	0	4
On every horse, mule, ass, buffalo, bull or bullock	...	0	2
On every elephant	...	1	0
On every camel	...	0	4

(2) The payment of a toll in respect of any vehicle covers the animals engaged in drawing it.

(3) Tolls are leviable upon vehicles irrespective of the means of traction employed.

(4) Not more than a single payment of toll may be demanded in respect of any vehicle or animal during any one period of twenty-four hours counted from midnight to midnight; and on such payment being made a receipt, in such form as the council may prescribe, shall be granted by the toll-keeper.

22. [*Omitted*].

Appeals.

23. *An appeal shall lie to the council in respect of the assessment and imposition of the following taxes and of no others :—*

(a) assessments made by the revenue divisional officer under rule 3 ;

(b) the proceedings of the chairman under rule 19 ;

(c) the order of the chairman under rule 13 upon a revision petition ; and

(d) the imposition by the chairman of any tax on any carriage, animal, or cart, or of the tax on servants.

24. The council may, of its own motion, or otherwise, cancel, or modify any order passed by the chairman reducing or remitting a tax.

25. An appeal shall be made in writing and shall set forth concisely and under distinct heads the grounds of objection to the decision or other proceedings appealed against.

26. No appeal to the council shall be heard—

(*a*) unless it be presented at the municipal office—

(i) within fifteen days from the service of the notice referred to in sections 95 and 102 ; or

(ii) within fifteen days from the date upon which the tax becomes payable under section 86 or 105 or under rule 15 ; or

(iii) within three days from the service of the notice referred to in section 108 :

Provided that the council may admit an appeal within fifteen days after the time prescribed in this rule, if cause be shown to its satisfaction for not preferring it within the prescribed time ; and

(*b*) unless (except when the chairman otherwise directs on the ground of poverty) the tax in respect of which the appeal is presented has been deposited at the municipal office *within the period specified in sub-clause* (*i*), (*ii*) *or* (*iii*) *of clause* (*a*) *as the case may be, or where an appeal is presented for admission under the proviso to the said clause* on or before the day upon which the appeal is presented.

27. The assessment books maintained under *sub-rule* (*1*) *of rule 2* shall be corrected in accordance with any orders passed by the council *under rule 24 or* on appeal ; in the event of the amount of any tax being *reduced* or remitted by the council, the chairman shall grant a refund accordingly.

28. The assessment or demand of any tax, when no appeal is made, as hereinbefore provided, and *when such an appeal is made, the adjudication of the council thereon* shall be final :

Provided that where any assessment or demand is not in accordance with the assessment books nothing in this rule shall be deemed to prohibit a fresh assessment or demand of the tax being made in accordance therewith,

28-A (1). *The powers of the council under rules 4, 23 and 24 shall, during any period in respect of which the Local Government may, by notification, so direct, be exercised by a special officer appointed by them. And thereupon the council shall cease to exercise the said powers during the said period and rules 4 and 23 to 28 shall have effect as if for the word 'council' wherever it occurs in those rules and for the word 'chairman' in clause* (b) *of rule 26, the words 'special officer appointed by the Local Government in this behalf' were substituted.*

(2) *A special officer appointed under sub-rule* (1) *shall have all such powers of the council and of the chairman as are necessary for the purpose of exercising his powers under the said sub-rule and he shall be entitled to the same protection as the council or chairman, as the case may be, is entitled.*

(3) *The special officer shall be paid out of the municipal fund such salary and allowances as the Local Government may, in consultation with the council, fix. If a Government servant is appointed special officer, the council shall also pay the Local Government such contribution towards the pension and leave allowances of such servant as may be payable under the regulations in force for the time being of the branch of Government service to which he belongs.*

Collection of taxes.

(See section 124.)

29. (1) *Where any tax not being a tax in respect of which a notice has to be served under section 95, 102 or 108 or in respect of which a direction has to be given under rule 13, is due from any person, the chairman shall serve upon such person a bill for the sum due before he proceeds to enforce the provisions of rule 30.*

(2) *A notice under section 95, 102 or 108 and a bill under sub-rule* (1) shall be signed by the chairman and shall contain—

(a) a statement of the period and a description of the occupation, property or thing for which the tax is charged ; and

(b) a notice of the liability incurred in default of payment.

(3) *Where a notice, bill or direction referred to in sub-rule* (1) *has not been served or given either in the half-year in which the tax became due or in the succeeding half-year, the tax for the half-year first mentioned in this sub-rule shall not be demanded :*

Provided that where the assessment books have been amended under rule 4, the notice, bill or direction, as the case may be, may be given either in the half-year in which the amendment was made or in the succeeding half-year.

30. (1) If the amount due on account of any tax is not paid within fifteen days from the service of the notice, or bill or the giving of the direction referred to in sections 95 and 102 and rules 13 and 29 or within

three days from the seivice of the notice referred to in section 108, and if the person from whom the tax is due has not shown cause to the satisfaction of the chairman why it should not be paid, the chairman may recover by distraint under his warrant and sale of the movable property of the defaulter, the amount due on account of the tax together with the warrant fee and the distraint fee, and with such further sum as will satisfy the probable charges that will be incurred in connexion with the detention and sale of the property so distrained :

Provided always that movable property described in the proviso to section 60 of the Code of Civil Procedure, 1908, shall not be liable to distraint.

(2) If for any reason the distraint, or a sufficient distraint, of the defaulter's property is impracticable, the chairman may prosecute the defaulter before a magistrate.

(3) Nothing herein contained shall preclude the council from suing in a civil court for any *tax* due to it under this Act.

(4) The warrant under sub-rule (1) shall be in the form contained in Appendix A to these rules or in some similar form ; and for each such warrant a fee of two annas *shall be levied.*

(5) Under a special order in writing of the chairman any officer charged with execution of a warrant of distress may, between sunrise and sunset, break open any outer or inner door or window of building in order to make the distress, if he has reasonable ground for believing that such building contains property which is liable to seizure, and if, after notifying his authority and purpose and duly demanding admittance, he cannot otherwise obtain admittance :

Provided that such officer shall not enter or break open the door of any apartment appropriated to women, until he has given three hours' notice of his intention and has given such women an opportunity to withdraw.

31. (1) The officer charged with the execution of a warrant, shall, before making the distraint, demand payment of the tax due and the warrant fee. If the tax and fee are paid, no distraint shall be made, *but if the tax or fee is not paid*, the officer shall—

(*a*) seize such movable property of the defaulter as he may think necessary ;

(*b*) make an inventory of the property seized ; and

(*c*) give to the person in possession of the property seized at the time of seizure a copy of the inventory and the notice of sale in the form in Appendix B to these rules or in some similar form :

Provided that a period of seven days shall be allowed for paying the amounts due and redeeming the property seized.

(2) The distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible *equal in value to the tax* due by

the defaulter, together with all expenses incidental to the warrant, distraint, detention and sale.

32. (1) If the amount due by the defaulter on account of the tax, the warrant fee and distraint fee and the expenses incidental to the detention of the property are not paid within the period of seven days mentioned in the notice given under rule 31 and if the distraint warrant is not suspended by the chairman, the property seized or a sufficient portion thereof shall be sold by public auction under the orders of the chairman who shall apply the proceeds of the sale to the payment of the amount due on account of the tax, the warrant fee and the distraint fee and the expenses incidental to the detention and sale of the property, and shall return to the person in whose possession the property was at the time of seizure any property or sum which may remain after the sale and the application of the proceeds thereof as aforesaid. If the proceeds of the sale are insufficient for the payment of the amount due on account of the tax, the warrant fee and distraint fee and the expenses incidental to the detention and sale of the property, the chairman may again proceed under rule 30 in respect of the sum remaining unpaid.

(2) When the property seized is subject to speedy and natural decay, the chairman may sell it at any time before the expiry of the said period of seven days, unless the amount due is sooner paid.

(3) The chairman shall consider any objections to the distraint of any property which are made within the said period of seven days and may postpone the sale pending investigation thereof. If the chairman decides that the property attached was not liable to distraint, he shall return it, or if it has already been sold, the proceeds of the sale to the person appearing to be entitled thereto and may again proceed under rule 30; and all fees and expenses connected with the first distraint and sale shall be recoverable from the defaulter if it shall appear to the chairman that he wilfully permitted the distraint of the property *when to his knowledge it was not liable* to distraint.

33. (1) Distraint fees shall be payable at such rates not exceeding those mentioned in Appendix C to these rules as may be, from time to time, determined by the council.

(2) Such fees shall not be held to include the expenses incidental to the detention of any property distrained under this Act.

34. The property of a person in default under *sub-rule (1) of rule 30* may be distrained wherever it may be found within the municipality.

35. If the tax due on account of any building or land *remains unpaid in whole or in part at the end of the period specified in sub-rule (1) of rule 30*, the chairman may, if the said tax has not remained unpaid for more than twelve months, require the occupier for the time being of such building or land to pay the amount within a specified period *not being less than fifteen days* and if the occupier fails to comply with *such*

requisition, the chairman may distrain and sell any movable property *found on the building or land*, and the provisions of the foregoing rule shall, *mutatis mutandis*, apply to all distraints and sales effected under this rule: provided that no occupier shall be liable to prosecution or to a civil suit in respect of any sum recoverable from him under this rule, unless he has wilfully prevented distraint or a sufficient distraint.

35—A. *If any tax due from any person remains unpaid in whole or in part at the end of the period specified in sub-rule (1) of rule 30 and if such person has left British India or cannot be found, the said tax or such part thereof as remains unpaid together with all sums payable in connexion therewith shall be recoverable as if it were an arrear of land revenue.*

36. (*1*) Every person who is prosecuted *under sub-rule* (*2*) *of rule 30* shall be liable, on proof to the satisfaction of the magistrate that he wilfully omitted to pay the amount due by him or that he wilfully prevented distraint or a sufficient distraint, to pay a fine not exceeding twice the amount which may be due by him on account of—

(*a*) the tax and the warrant fee, if any, and

(*b*) if distraint has taken place, the distraint fee and the expenses incidental to the detention and sale, if any, of the property distrained.

(*c*) [*Omitted*]

(*2*) *Whenever any person is convicted of an offence under sub-rule* (*1*), *the magistrate shall, in addition to any fine which may be imposed, recover summarily and pay over to the municipal council—*

The amounts, if any due, under the heads specified in clauses (*a*) *and* (*b*) *of sub-rule* (*1*); *and may in his discretion also recover summarily and pay to the council such amount, if any, as he may fix as the costs of the prosecution.*

36—A. Neither the chairman nor any municipal officer or servant shall directly or indirectly purchase any property at any sale of distrained property held under the foregoing rules.

PART II.—FINANCE RULES

[See section 124.]

Authorized objects of expenditure.

37. The purposes to which the municipal fund may be applied include all objects expressly declared obligatory or discretionary by laws or rules, and in general everything necessary for, or conducive to the safety, health, convenience or education of the inhabitants or to the amenities of the municipality and everything incidental to the administration; and the fund shall be applicable thereto within the municipality subject to these rules and such further rules or special orders as the *Local Government* may prescribe or issue; and shall be applicable thereto without the municipality if the expenditure is authorized by this Act, or specially sanctioned by the *Local Government*.

38. The objects of expenditure connected with the public safety include the following :—

(*a*) the lighting of public streets and the provision, purchase, exploitation and maintenance of electric, gas or other undertakings for lighting public and private streets, places and buildings ;

(*b*) extinction of fires ;

(*c*) control, supervision or removal of dangerous places, buildings, trades and practices ;

(*d*) regulation of traffic ;

(*e*) prevention and removal of obstructions in public streets or places ;

(*f*) the giving of relief and the establishment and maintenance of relief works in time of famine or scarcity.

39. The objects of expenditure connected with the public health include the following :—

(*a*) the construction and maintenance of hospitals and dispensaries and temporary places of reception within the municipality or without the municipality for the treatment of infectious diseases occurring in the municipality; building hospitals and dispensaries and places of reception for the sick in general; contributing towards hospitals, dispensaries or places of reception provided by the *Local Government*; contracting for the use of a hospital or part of a hospital, dispensary or place of reception; combining with any other local authority or with the *Local Government* to provide a common hospital, dispensary or place of reception; sending indigent inhabitants of the municipality to institutions outside the municipality for treatment; the training of medical practitioners, medical subordinates, midwives, nurses, health officers, sanitary inspectors and analysts, the provision of nurses for attendance on patients suffering from infectious disease at the houses of such persons; vaccination and the training and supervion of vaccinators and the provision of lymph ; the registration of births, deaths and marriages; the enumeration of the inhabitants of the municipality and other measures of a like nature ;

(*b*) the construction and maintenance of lunatic asylums ;

(*c*) the construction, establishment and maintenance, supervision and control of public markets and slaughter-houses ; *of shops, stalls and plinths* ; of latrines ; of sewage farms and all works for the removal or disposal of sewage ; of water-works, drinking fountains, tanks and wells ; of wash-houses and dhobykanas ; of parks, squares and gardens; the reclamation of unhealthy localities ; and other sanitary measures of a like nature ;

(*d*) the cleansing and watering of streets and drains, scavenging ; the removal of excessive or noxious vegitation ; the abatement of all nuisances ;

(*e*) the regulation and control of offensive or dangerous trades, of unhealthy buildings or localities, and of burial and burning grounds and crematoria; the provision of sites for and the closing of burial and burning grounds; the provision of new sites for offensive and dangerous trades and of special locations for factories; the acquisition of congested areas and the provision of new sites, whether within or without municipal limits, to relieve congestion or to provide for the growth of population; improvement and reclamation of land, planning, surveying and control of town-extensions, whether within or without municipal limits, redistribution of sites in such extensions and all measures of a like nature; *and the acquisition of land for any of the aforesasid purposes.*

40. The objects of expenditure connected with the public convenience, education and amenities include—

(*a*) the construction, maintenance, diversion and improvement of streets, bridges, causeways, culverts and the like and the acquisition of the land necessary for the buildings to form or improve streets; the regulation of building; the construction of model dwellings and the encouragement of co-operative building societies by loans, grants of land, or prizes; the removal of projections and encroachments; the naming of streets; the numbering of houses; the planting and preservation of trees in public streets and places; the maintenance of public monuments;

(*b*) subject to rules 47 to 52, the establishment and maintenance of schools, the construction and maintenance of school-houses, public libraries and reading rooms, museums, art-galleries, gymnasia or any other institutions connected with the diffusion of mental or physical culture or technical instruction or the training of teachers;

(*c*) the holding of industrial exhibitions or fairs;

(*d*) the construction, maintenance and adornment of public halls and theatres; the acquisition and maintenance of recreation grounds, playing fields and promenades;

(*e*) subject to all provisions of law, the construction, maintenance and purchase or exploitation of tramways and other transport services (railways not included), of telephone systems, grass farms, dairies, public bakeries and *other agricultural, industrial or trading concerns* of public utility either within or without the municipal limits and whether or not in combination with other authorities or persons, and subscription to debenture loans of any such concerns;

(*f*) the employment of veterinary officers, the prevention of diseases of animals, the provision of places for the treatment of sick animals, and the prevention of cruelty to animals;

(*g*) the construction and maintenance of rest-houses, choultries, poor-houses, pounds and other works of public utility;

(*h*) the provision and maintenance or holding of zoological and horticultural gardens and exhibitions ;

(*i*) the provision of standard weights ; scales and measures and public weighing places,

(*j*) the provision and maintenance of public baths and bathing places ;

(*k*) the provision of music for the people ;

(*l*) the provision and maintenance of public clocks and clock-towers or a time gun ;

(*m*) the organization and maintenance of health associations ;

(*n*) the organization and maintenance of associations for the prevention of juvenile smoking and cruelty to children.

41. With the previous sanction of the *Local Government*, the council may—

(*a*) upon any of the public streets in the town or upon any land in or without the town which is vested in the council, construct or maintain any railway which may appear to the council to be useful or necessary for the removal of rubbish and offensive matter or for any of the other purposes of this Act,

(*b*) use and employ upon any such railway locomotive engines or other motive power and carriages and wagons to be drawn or propelled thereby,

(*c*) carry and convey passengers and goods upon any such railway,

(*d*) make such reasonable charges in respect of such passengers or goods as the council may from time to time determine,

(*e*) from time to time enter into any contract with any person for the construction, maintenance and working of any such railway in or without the town,

(*f*) from time to time enter into any contract with any person for the passage over any such railway of locomotive engines or other motive power, carriages and wagons belonging to or controlled by such person upon the payment of such tolls or rent, and under such conditions and restrictions, as may be mutually agreed upon, and

(*g*) lease any such railway to any person upon such terms and under such conditions and restrictions as may be mutually agreed upon.

Note.—The term 'railways' in this rule does not include 'tramways.'

42. The objects of expenditure incidental to the administration include—

(*a*) the provision and maintenance of a principal municipal office and record-room and of other offices with the cost of appurtenances and fittings and insurance ;

(*b*) salaries, allowances, liveries, pensionary contributions and provident fund contributions, gratuities, and pensions of, and the cost

or hire of vehicles for, the municipal officers and servants; study leave allowances of professional officers and subordinates; sending municipal servants to the Pasteur Institute, Coonoor, for treatment;

(*c*) stationery, printing and all office and advertising expenses;

(*d*) legal expenses;

(*e*) the expenses of holding elections;

(*f*) the provision and maintenance of municipal workshops;

(*g*) municipal surveys, the preparation of maps of the municipality and the preparation and maintenance of a record of rights in immovable property.

Obligatory expenditure.

43. Expenditure on the following objects is obligatory subject to special directions that the *Local Government* may issue in respect of any municipality by notification:

(*a*) the principal municipal office and record-room;

(*b*) maintenance of public property and monuments vested in the municipality;

(*c*) maintenance of property owned by the municipality;

(*d*) salaries and pensionary and provident fund contributions, gratuities and pensions of the municipal officers and servants according to the conditions on which such persons entered the municipal service;

(*e*) scavenging;

(*f*) lighting the public street;

(*g*) burial and burining grounds where no sufficient number is provided by other agency;

(*h*) medical relief to the extent laid down in rules 44, 45 and 46;

(*i*) diffusion of education to the extent laid down in rules 47 to 51.;

(*j*) registration of births and deaths;

(*k*) vaccination;

(*l*) provision of slaughter-houses;

(*m*) payment of interest on and amortization of debt (if any);

(*n*) all other objects declared obligatory by law or rule.

Obligatory medical expenditure.

44. (1) The council shall provide and maintain either from endowments or from the municipal fund or by grants-in-aid therefrom, in accordance with such rules as may from time to time be prescribed by the *Local Government*, a hospital or dispensary where the sick poor of the municipality shall be entitled to receive a medical and surgical advice and treatment free of charge; and the council shall provide and maintain more than one such hospital or dispensary if the *Local Government direct* it to do so:

Provided that the *Local Government* shall not so direct until the council shall have had an opportunity of submitting its views on the subject to the *Local Government*:

Provided further that the council shall not be bound to provide or maintain any such hospital or dispensary when, in the opinion of the *Local Government*, sufficient provision has otherwise been made for the treatment, free of charge, of the sick poor of the municipality.

(2) Any inhabitant of the municipality, who is not a fit object of public charity, may, subject to such regulations as the council, with the approval of the *Local Government*, may from time to time frame, obtain medical or surgical advice and treatment from any hospital or dispensary maintained by the council from endowments or from the municipal fund; provided that any charges incurred by the council in the medical or surgical relief of persons other than the sick poor of the municipality or those unable to pay a medical attendant shall be reimbursed by such persons.

(3) The council may also permit the treatment in the hospitals or dispensaries maintained by it from endowments or from the municipal fund of any person not resident in the municipality.

45. The council shall provide every hospital or dispensary provided or maintained by it with all necessary drugs, instruments, apparatus, furniture and appliances on a scale approved by the *Local Government*, and when, in the opinion of the council, provision for in-patients may be necessary, it shall also provide a sufficient number of cots, bedding, clothing, furniture and diet for such in-patients.

46. The council shall employ a medical officer for any hospital or dispensary maintained by it from endowments or from municipal fund.

Obligatory educational expenditure

47. The council shall, so far as the funds at its disposal may admit, make provision for the instructions in schools of all children of school-going age resident within the limits of the municipality, for whose instruction provision shall not otherwise have been made.

48. The council may provide instruction—

(i) either by schools maintained wholly from the municipal fund, or

(ii) by means of grants-in-aid to private schools from the said fund in accordance with such rules as may from time to time be prescribed by the *Local Government*, or

(iii) by contributing towards the cost of Government schools, or

(iv) by more than one of such means.

49. The council may, with the previous sanction of the *Local Government*, maintain either wholly from the municipal fund, or by

grants-in-aid therefrom, elementary schools to which admission may be wholly or partly free for any class of the inhabitants which, in the opinion of the council, is by reason of poverty unable to pay the fees leviable in schools maintained by the council whether wholly from the municipal fund or by grants-in-aid therefrom.

50. (1) If at any time it seems advisable to the *Local Government* that a grant-in-aid should be made to any school maintained solely for the instruction of the childern of any particular class of the inhabitants of any municipality *they may direct* the municipal council to make such grant to such school; and the council shall make it accordingly; provided that the *Local Government* shall not so direct until the council shall have had an opportunity of submitting its views on the subject to the *Local Government.*

(2) The instruction to be provided by the council shall be of such standards as may from time to time be determined by the *Local Government.*

51. (1) The council shall, unless otherwise provided by any law for the time being in force, or in the case of elementary schools exempted by the *Local Government* on such conditions as it may prescribe from time to time, levy in every school maintained by it, fees as may from time to time be determined by the Local Government :

Provided that if the council is satisfied that the parent or guardian of any child, resident in the municipality, is by reason of poverty unable to pay for the elementary education of such child, it may remit the whole or part of the fees, but it shall not compel the parent or guardian of such child in consideration of the said relief to send such child to any particular municipal school :

Provided further that the council may, in any secondary school, in accordance with a scheme framed by it and approved by the Director of Public Instruction, remit the whole or part of the fees of poor pupils, subject to the condition that the fee income thus foregone shall not exceed 10 per cent of the total fees realizable from all pupils of the school at the rates determined by the local Government.

(2) The proceeds of all fees levied by the council as aforesaid shall be expended by the council for the provision of instruction by means of schools.

Discretionary educational expenditure

52. The council may also provide wholly from the municipal fund, or by means of grants-in-aid therefrom,

(i) for the inspection of schools maintained by it, whether wholly from the municipal fund or by grants-in-aid-therefrom ;

(ii) for the training of teachers for schools aided or maintained from the municipal fund ;

(iii) for the instruction and training of persons for the practice of medicine, or of vaccination, or of any technical or industrial calling; and

[(iv) for the maintenance of public libraries, reading rooms, gymnasia or any other institutions connected with the diffusion of education, which may be approved by the *Local Government.*

Extraordinary expenditure

53. A municipal council may, with the sanction of the *Local Government*,

(1) contribute towards the expenses of any public exhibition, ceremony or entertainment in the municipality ;

(2) defray the cost of the preparation and presentation of addresses to persons of distinction visiting the municipality ;

(3) contribute to any charitable fund or to a fund for the defence of the municipality, India or the Empire or to the funds of any institution for the relief of the poor or the treatment of disease or infirmity or the reception of diseased or infirm persons or the investigation of the causes of disease ;

(4) pay a conveyance allowance to the chairman or vice-chairman ;

(5) pay the expenses of the chairman, members of the council and municipal officers and servants travelling on municipal business ; and

(6) any other extraordinary charges.

Receipts and payments.

54. All moneys received by the council shall be lodged in the nearest Government treasury or, with the sanction of the *Local Government*, in a bank :

Provided that the municipal council may, with the sanction of the *Local Government*, invest any sums not required for immediate use either in a Government savings bank or in Government securities, or in any other security which may be approved by the *Local Government.*

55. (1) *All orders or cheques against the municipal fund shall be signed by the chairman or by some person duly authorized in this behalf by him.* The treasury or bank in which the fund is lodged shall, so far as the funds to the credit of the council admit, pay all orders or cheques against the fund which are so signed.

(2) If the council shall have given previous authority in writing such treasury or bank may at once pay out of the municipal fund without such order or cheque any expense which the *Local Government have incurred* on behalf of the council.

Audit, surcharge and disallowance.

56. The chairman shall submit all accounts to auditors as required by them.

57. The auditors may—

(*a*) by summons in writing require the production of any document, the perusal or examination of which they believe necessary for the elucidation of the accounts;

(*b*) by summons in writing require any person having the custody or control of any such document or accountable for it to appear in person before them;

(*c*) require any person so appearing to make and sign a declaration with respect to such document or to answer any question or to prepare and furnish any statement relating thereto.

58. The auditors shall—

(*a*) report to the council any material impropriety or irregularity which they may observe in the expenditure, or in the recovery of moneys due to the council or in the municipal accounts;

(*b*) furnish to the council such information as it may require concerning the progress of their audit;

(*c*) report to the council any loss or waste of money or other property owned by or vested in the council caused by neglect or misconduct, with the names of persons, directly or indirectly, responsible for such loss or waste; and

(*d*) submit to the council a final statement of the audit and a duplicate copy thereof to the *Local Government* within a period of three months from the end of the financial year, or within such other period as the *Local Government* may notify.

59. The chairman shall forthwith remedy any defects or irregularities that may be pointed out by the auditors and report the same to the council.

60. (1) the auditors *shall* disallow every item contrary to law and surcharge the same on the person making, or authorizing the making of, the illegal payment; and *shall* charge against any person responsible therefor the amount of any deficiency or loss incurred by the negligence or misconduct of that person or of any sum which ought to have been but is not brought into account by that person and shall, in every such case, certify the amount due from such person.

(2) The auditors shall state in writing the reasons for their decision in respect of every disallowance, surcharge or charge and furnish by registered post a copy thereof to the person against whom it is made.

(3) If the person to whom a copy of the auditor's decision is so furnished, refuses to receive it, he shall nevertheless be deemed to have been duly furnished with a copy of such decision within the meaning of sub-rule (2). The period of fourteen days fixed in rules 61 and 62 shall be calculated from the date of such refusal.

61. Any person aggrieved by disallowance, surcharge or charge made may, within fourteen days after he has received or been served with the decision of the auditor, either—

(*a*) apply to the principal civil court of original jurisdiction to set aside such disallowance, surcharge or charge and the court, after taking such evidence as is necessary, may confirm, modify or remit such disallowance, surcharge or charge with such orders as to costs as it may think proper in the circumstances; or

(*b*) in lieu of such application may appeal to the *Local Government* who shall pass such orders as they think fit.

62. Every sum certified to be due from any person by auditors under this Act shall be paid by such person to the chairman within 14 days after the intimation to him of the decision of the auditors unless within that time such person has appealed to the court or to the *Local Government* against the decision; and such sum if not so paid, or such sum as the court or the *Local Government* shall declare to be due, shall be recoverable on an application made by the chairman to the court in the same way as an amount decreed by the court.

APPENDIX A.

DISTRAINT WARRANT.

[See Rule 30 (4).]

Warrant No.

To

(Name of officer charged with execution of warrant.)

(State tax or taxes due and premises, if any, in respect of which the tax or taxes are due.)

Whereas of has not paid or shown sufficient cause for the non-payment of the sum of Rs. A. P. due for the tax or taxes noted above for the ending 19 , although the said sum has been duly demanded from the said and fifteen * days have elapsed since such demand was made: This is to command you to demand the said sum of Rs. A. P. together with annas two for warrant fee, failing payment of which you are to distrain the goods and chattels of the said (or as the case may be, any goods and chattels found on the premises referred to), to the amount of the said sum of Rs. A. P. together with Rs. A. P. for warrant fee and distraint fee making together a sum of Rs. A. P. and such further sum as may be sufficient to defray the charges of keeping and selling such distraint; and if within seven days next after such distraint, the amount due on account of the said tax or taxes and fee shall not be paid, together with such further sum as may be sufficient to defray the charges of keeping such distraint, to sell the said goods and chattels under orders

* (Three days in case of tax on servants).

to be hereafter issued by me, and to remit to the municipal office the sale-proceeds of the *distrained* property, out of which the amount due on account of the said taxes and fees, *viz.*, Rs. **A. P.** and the charges of keeping, and selling such distraint will be deducted and credited to the municipal fund, and the surplus if any, returned to the owner of the goods and chattels distrained. If distraint or sufficient distraint cannot be found of the goods and chattels of the said , you are to certify the same to me together with this warrant

STATION
Date 19 . (Signature of the chairman.)

APPENDIX B.

FORM OF INVENTORY AND NOTICE.

[See Rule 31 (1) (*c*).]

(State particulars of goods and chattels seized.)

Take notice that I have this day seized the goods and chattels specified in the above inventory for the sum of **Rs. A. P.** due for the tax or taxes mentioned in the margin for the ending 19 ; and that unless you pay into the office of the municipality of the amount due together with the warrant fee, the distraint fee and the cost of keeping the goods and chattels, within seven days from the date of this notice, the goods and chattels will be sold on the day of 19 , at the municipal office or at such other place as the chairman may direct; and that the goods and chattels may be sold at any previous date, if they are liable to speedy and natural decay.

(Signature of the officer executing the warrant of distress.)

STATION
Date 19 .

APPENDIX C.

TABLE OF FEES PAYABLE ON DISTRAINTS.

[See Rule 33 (1).]

Sum distrained for.	Fees. Rs.	A.	P.
Under 1 rupee ...	0	4	0
1 rupee and over but under 5 rupees ...	0	8	0
5 rupees ,, ,, 10 ,, ...	1	0	0
10 ,, ,, ,, 15 ,, ...	1	8	0
15 ,, ,, ,, 20 ,, ...	2	0	0
20 ,, ,, ,, 25 ,, ...	2	8	0
25 ,, ,, ,, 30 ,, ...	3	0	0
30 ,, ,, ,, 35 ,, ...	3	8	0

Sum distrained for.				Fees.		
35 "	"	" 40 "	...	4	0	0
40 "	"	" 45 "	...	4	8	0
45 "	"	" 50 "	...	5	0	0
50 "	"	" 60 "	...	6	0	0
60 "	"	" 80 "	...	7	8	0
80 "	"	" 100 "	...	9	0	0
100 rupees and over	...	...	... ...	10	0	0

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each *peon*.

NOTES : **Schedule IV, Rules 56 to 62** :—In the course of his speech introducing the Madras District Municipalities Bill of 1919 in the Legislative Council the Honourable Khan Bahadur Muhamad Habibulla said as follows:—" Schedule IV which deals with audit, surcharge and disallowance was inserted at the express recommendation of the committee which considered that the English system of surcharge by auditors and the summary recovery of the amounts surcharged might be introduced in the Bill with suitable modification".

SCHEDULE V.

PURPOSES FOR WHICH PREMISES MAY NOT BE USED WITHOUT A LICENCE UNDER SECTION 249.

(See Section 249.)

(*a*) Washing soiled clothes and keeping soiled clothes for the purpose of washing them, and washed clothes ;

(*b*) boiling paddy, or camphor ;

(*c*) melting tallow or sulphur ;

(*d*) storing or otherwise dealing with manure, offal, blood, bones, rags, hides, fish, horns or skins ;

(*e*) washing or drying wool or hair ;

(*f*) making fish-oil ;

(*g*) making soap, dyeing, boiling or pressing oil, *burning* bricks, tiles, pottery or lime ;

(*h*) manufacturing or distilling sago ; manufacturing artificial manure ; manufacturing beedies ;

(*i*) manufacturing gunpodwer or fire-works ;

(*j*) keeping a public halting-place, choultry or other rest-house for travellers (other than a choultry or rest-house maintained by the Government or a local authority), a hotel, restaurant, eating-house, coffee house, boarding house or lodging house (other than a students' hostel under public or recognized control) ;

(*k*) keeping together twenty or more sheep or goats or ten or more pigs or head of cattle ;

(*l*) preparing flour or articles made of flour for human consumption or sweetmeats ;

(*m*) manufacturing ice or aerated waters;

(*n*) selling or storing timber, firewood, thatching materials, hay. grass, straw, fibre, coal or charcoal;

(*o*) selling grain, groundnut or jaggery wholesale or storing any of the said articles for the wholesale trade;

(*p*) manufacturing jaggery or sugar-candy;

(*q*) *storing any explosive or combustible material*;

(*r*) *manufacturing anything from which offensive or unwholesome smells arise;*

(*s*) *using for any industrial purpose any fuel or machinery*; *and*

(*t*) *in general, doing in the course of any industrial process anything which is likely to be dangerous to human life or health or property;*

Provided that no licence shall be required for the storage of timber, firewood, thatching materials, hay, grass, straw, fibre, or coal or for boiling paddy *when such storage or boiling is* for private use.

SCHEDULE VI.

LIST OF DANGEROUS DISEASES.

(See section 287.)

Acute influenzal pneumonia.
Anthrax.
Chickenpox.
Cholera.
Diphtheria.
Enteric fever.
Glanders.
Leprosy.
Plague.
Smallpox.
Tuberculosis.
Typhoid fever.
Influenza.
Relapsing fever.
Rabies.

SCHEDULE VII

ORDINARY PENALTIES.

(See section 313.)

Section or rule. (1)	Sub-section or clause. (2)	Subject. (3)	Fine which may be imposed. (4)
30	(*1*)	*Interested councillor voting or taking part in discussion.*	*Fifty rupees.*
88	...	Failure to give notice of transfer of title or to produce documents.	Fifty rupees.
89	(*1*)	Failure to send notice to chairman after completion of construction or reconstruction of building.	Do.
91	(1)	Failure of owner or occupier to furnish return of rent, etc.	One hundred rupees.
96	...	Failure of owner or occupier to obey requisition to furnish list of persons carrying on profession, art, etc	Do.
97	...	Failure of employer or head of an office, firm or company to obey requisition to furnish list of persons in his employ.	Do.
102	(*2*)	Failure of occupier to obey requisition to furnish statement of vehicles and animals liable to taxation or furnishing incorrect statement.	Ten rupees.
104	...	Failure to obey order to affix and register number of carriage.	Do.
105	(2)	Failure of owner to register cart or other vehicle.	Do.
...	(3)	Failure to have or keep registration number affixed to cart.	Do.
109	...	*Failure to furnish lists of servants employed.*	*Fifty rupees.*
113	...	Attempt to evade payment of toll.	Fifty rupees.
127	...	Trespassing on premises connected with the water-supply.	Do.
130	...	Failure to maintain house connections in conformity with by-laws and regulations.	Do.
131	(2)	Failure to obey requisition to make house connection.	Do.
138	...	Failure to maintain house-drains, etc., in conformity with by-laws and regulations.	Do.
139	(2) & (3)	Failure to obey requisition as to house-drainage.	Do.
140	(1) (b)	Failure to obey direction as to limited use of drain or notice requiring construction of distinct drain.	Do.
142	...	Unlawful construction of building over public drain.	One hundred rupees.
143	...	Failure to obey requisition regarding culverts, etc., or to keep them free from obstruction.	Fifty rupees.
144	...	Failure to obey requisition to maintain troughs and pipes for catching, etc., water from roof or other part of building.	Do.
146	...	Failure to obey requisition to provide latrine or to remove latrine to another site and failure to keep latrine clean and in proper order.	Do.
147	...	Failure to provide latrines for premises used by large numbers of people or to keep them clean and in proper order.	One hundred rupees.
148	...	Failure to obey requisition to provide latrines for market, cattle-stand or cart-stand or to keep them clean and in proper order.	Do.
149	...	Failure to construct latrines so as to screen persons using them from view	Twenty rupees.
151	...	Making connection with mains without permission.	Two hundred rupees.

ORDINARY PENALTIES—(*Contd.*)

Section or rule. (1)	Sub-section or clause. (2)	Subject. (3)	Fine which may be imposed. (4)
157	...	Improper disposal of carcasses, rubbish and filth.	Ten rupees.
158	...	*Allowing rubbish or filth to accumulate on premises for more than twenty-four hours, etc.*	*Twenty rupees*
159	...	Allowing filth to overflow in streets.	Ten rupees.
160	...	Using cart without cover in removal of filth, etc.	Twenty rupees.
161	...	Throwing rubbish or filth into drains.	Do.
167	...	Building within regular lines of street.	One thousand rupees.
168	(*1*)	*Failure to obey orders to set back buildings.*	*Five hundred rupees.*
173	...	Unlawful displacement, etc., of pavement or fences, posts and other materials of public street.	Fifty rupees.
174-A	(*1*)	*Using a motor vehicle for hire or a motor lorry without licence or contrary to licence.*	*Two hundred rupees.*
175	...	*Failure to provide roads, etc., on building-sites prior to disposal.*	*Do.*
176	(5)	Unlawful making or laying of new private street.	Five hundred rupees.
178	...	Failure to obey requisition to metal, etc., private street.	One hundred rupees.
180	...	Building wall or erecting fence, etc., in a public street.	Do.
180-A	...	Obstructing a person in the use of a street referred to in section 180-A.	Do.
181	...	Allowing doors, ground-floor windows, etc., to open outwards without licence or contrary to notice.	Twenty rupees.
182	...	Failure to remove permanent encroachment.	Two hundred rupees.
183	...	Failure to remove temporary encroachment.	Fifty rupees.
185	...	Unlawful removal of bar, or shoring timber, etc., or removal or extinction of light.	Twenty rupees.
186	...	Unlawful making of hole or placing of obstruction in street.	Fifty rupees.
187	...	Construction, etc., of building without licence where street or footway is likely to be obstructed.	Do.
		Failure to fence, etc., such buildings while under repair or failure to remove obstruction.	Do.
188	...	Failure to remove obstruction caused in street by fall of trees, etc., within 12 hours of fall.	Do.
189	(3)	Unlawful destruction, etc., of name of street.	Twenty rupees.
190	(2)	Unlawful destruction, etc., of number of building.	Five rupees.
190	(3)	Failure to replace number when required to do so.	Twenty rupees.
193	(*5*)	*Constructing or reconstructing building contrary to declaration issued by council.*	*Two hundred rupees.*
194	(*1*)	*Failure to obey requisition to round or splay off buildings at corners of streets.*	*One hundred rupees.*
195	...	Construction of external roofs, etc., with inflammable materials.	Fifty rupees.
196	...	Construction of door or window, etc., to open outwards on public street.	Twenty rupees.
214	...	Failure to keep external walls of premises in proper repair.	Do.
218	(1)	Failure to obey requisition to take down, repair or secure dangerous structure.	Five hundred rupees.
219	(1)	Failure to obey requisition to secure, lop, or cut down dangerous trees.	Fifty rupees.

ORDINARY PENALTIES—(*Contd.*)

Section or rule. (1)	Sub-section or clause. (2)	Subject. (3)	Fine which may be imposed. (4)
220	...	Failure to obey requisition to repair, etc., tank or other place dangerous to passers-by or persons living in neighbourhood.	Fifty rupees.
221	...	Failure to obey requisition to stop dangerous quarrying.	One hundred rupees.
222	...	Failure to obey notice regarding precautions against fire.	Do.
223	(1)	Constructing well, etc., without permission.	Fifty rupees.
	(3)	Failure to obey notice to fill up or demolish well, etc.,	Do.
224	...	Failure to obey requisition to fill up, etc, tank or well, or drain off water, etc.	Do.
225	...	Cultivating contrary to prohibition or regulations.	Five hundred rupees.
226	...	Failure to obey requisition to cleanse or close, etc., tank, well or other source of water used for drinking.	Fifty rupees.
227-A	...	Obstructing a person in the use and enjoyment of a well, tank or reservoir referred to in section 227-A.	One hundred rupees.
228	...	Unlawful washing and fishing in river, etc., after prohibition or contrary to regulations.	*Fifty rupees.*
230	...	Washing of clothes by washermen at unauthorized places.	*Twenty rupees.*
231	...	Defiling water of tanks, etc.	*Fifty rupees.*
232	...	Failure to obey requisition to enclose, clear or cleanse untenanted premises.	Fifty rupees.
233	...	Failure to obey requisition to clear or cleanse, etc., building or land in filthy state or overgrown with noxious vegetation.	Do.
234	...	Failure to obey requisition to fence building or land, or trim, prune or cut hedges and trees or lower an enclosing wall.	Do.
235	...	Failure to obey requisition to lime-wash or otherwise cleanse building.	Do.
236	...	Failure to obey requisition to execute work or take other action with respect to insanitary buildings.	One hundred rupees in the case of building and fifty rupees in the case of hut.
237	(2)	Using or allowing the use of buildings unfit for human habitation after prohibition.	Twenty rupees for each day.
	(4)	Failure to obey requisition to demolish the same.	Do.
238	(1)	Allowing overcrowding in building after order to abate the same.	Ten rupees for each day.
...	(4)	Failure to obey requisition to vacate overcrowded building or room.	Do.
239	...	Feeding animals on filth.	Fifty rupees.
240	...	Unlawful keeping of animal so as to be a nuisance or dangerous.	Ten rupees.
245	...	Use of place as stable, cattle-stand, etc., without licence or contrary to licence.	Fifty rupees.
246	...	Construction or maintenance of stable, cattle-shed, etc., contrary to Act or subsidiary legislation.	Do.
247	...	Use of place as stable, cattle-shed, etc., contrary to notice issued by chairman.	Two hundred rupees.

ORDINARY PENALTIES—(*Cont.*)

Section or rule. (1)	Sub-section or clause. (2)	Subject. (3)	Fine which may be imposed. (4)
249	(*1*)	*Using a place for any of the purposes specified in Schedule V without licence or contrary to licence.*	*One hundred rupees.*
250	...	Unlawful erection of factory, workshop, etc.	One thousand rupees.
251	...	Disobedience of order regarding abatement of nuisance.	One hundred rupees.
255	...	Use of place as slaughter-house without licence or contrary to licence.	Two hundred rupees.
257	...	Slaughter of animals for sale or food or skinning or cutting up carcasses or drying skin so as to cause a nuisance.	Twenty rupees for every animal, carcass or skin.
258	...	Carrying on milk trade without licence or contrary to licence.	Fifty rupees.
259	...	Obstructing a person in the use of a market referred to in section 259.	One hundred rupees.
261	...	Sale or exposure for sale in public market of animal or article without licence or contrary to licence.	Twenty rupees.
262	...	Opening or keeping open private market without licence or contrary to licence.	Five hundred rupees.
263	...	Sale or exposure for sale of animal or article in unlicenced private market.	Twenty rupees.
264	(2)	Failure to obey direction to construct approaches, drains, etc., to private markets or to pave them etc..	Fifty rupees.
265	...	Opening or keeping open of private market after suspension or refusal of licence for default to carry out works.	Twenty rupees for each day.
266	...	Nuisance in private markets.	Twenty rupees.
269	...	Carrying on butcher's, fishmonger's or poulterer's trade without licence, etc.,	One hundred rupees.
270	...	*Sale or exposure for sale of animal or article in public street* after prohibition or contrary to regulations.	Ten rupees.
270-C	...	*Using a public place or the sites of a public street as a public landing place etc.*	Two hundred rupees.
270-E	...	*Opening or keeping open a new private cart-stand, without licence or contrary to licence.*	*Two hundred rupees*
273	...	Preventing the chairman or any person authorized by him from exercising his powers of entry, etc., under this section.	Fifty rupees.
275	...	Removing or in any way interfering with an animal or article secured under *section 274.*	Five hundred rupees.
279	(*1*)	*Opening, etc., without licence a new place for the disposal of the dead.*	*One hundred rupees.*
281	(3)	Use or allowance of use of burial or burning ground which has not been registered, licenced or provided.	One hundred rupees.
282	...	Failure to give information of burials or burnings in burial or burning ground.	Twenty rupees,
283	(3)	Burial or burning in a place after prohibition.	One hundred rupees.
284	...	Offences in respect of corpses.	Fifty rupees.
285	...	Discharge of office of grave-digger or attendant at place for disposal of dead without licence	Five rupees.
288	...	Failure of medical practitioner or owner to give information of existence of dangerous disease in private or public dwelling.	Fifty rupees.

ORDINARY PENALTIES—(*Cont.*)

Section or rule. (1)	Sub-section of clause. (2)	Subject. (3)	Fine which may be imposed. (4)
290	...	Failure to obey requisition to cleanse or disinfect buildings or articles.	Fifty rupees.
291	(3)	Washing of infected articles at unauthorized places.	Do.
292	...	Giving, lending, etc., of infected articles.	Do.
293	...	Using water after prohibition.	Do.
295	...	Infected person carrying on occupation.	Do.
296	(1)	Travelling of infected person in public conveyance without taking proper precautions against spread of disease.	Do.
	(2)	Entry of infected person into public conveyance without notifying fact of infection.	Do.
	(3)	Carrying infected person in public conveyance.	Do.
297	...	Letting or subletting of infected building without previous disinfection, etc.	Two hundred rupees.
298	...	Failure to close place of public entertainment.	Do.
299	...	Sending infected child to school.	Fifty rupees.
301	...	Failure to give information of smallpox.	Do.
302	...	Person entering municipality within forty days of inocculation for smallpox without certificate.	One hundred rupees.
321	(8)	Failure to produce licence on request.	Five rupees.
325	...	*Failure to obey summons.*	*Fifty rupees.*
333	(1)	Failure of occupier to obey requisition to permit owner to comply with provisions of Act.	Fifty rupees. for each day.
359	...	Obstructing or molesting municipal council, etc.	Fifty rupees.
360	...	Removing mark set up for indicating level, etc.	Do.
361	...	Removal, etc , of notice exhibited by or under orders of the council.	Do.
362	...	Unlawful removal of earth, sand or other material from land vested in the council or deposit of matter or encroachment in or on river, estuary, etc.	Twenty rupees,
Rule 57 of Schedule IV.	...	Failure to obey requisition by auditors to attend, give evidence or produce document.	Fifty rupees.

SCHEDULE VIII.

PENALTIES FOR CONTINUING BREACHES.

(See section 313.)

Section or rule. (1)	Sub-section or clause. (2)	Subject. (3)	Daily fine which may be imposed. (4)
130	...	Failure to maintain house-connections in conformity with by-laws and regulations.	Five rupees.
131	(2)	Failure to obey requisition to make house-connexion.	Do.
138	...	Failure to maintain house-drains, etc., in conformity with by-laws and regulations.	Ten rupees.
139	(2) (3)	Failure to obey requisition as to house-drainage.	Do.
144	...	Failure to obey requisition to maintain troughs and pipes for catching, etc., water from roof or other part of building.	Do.
146	...	Failure to obey requisition to provide latrine or to remove latrine to another site and failure to keep latrines clean and in proper order.	Do.
147	...	Failure to provide latrines for premises used by large numbers of people or to keep them clean and in proper order.	Twenty rupees.
148	...	Failure to obey requisition to provide latrines for market, cattle-stand or cart-stand or to keep them clean and in proper order.	Do.
167	...	Building within regular lines of street.	One hundred rupees.
174-A	(*1*)	*Using a motor vehicle for hire or a motor lorry without licence or controry to licence,*	*Fifty rupees.*
182	...	Failure to remove permanent encroachment.	Ten rupees.
183	...	Failure to remove temporary encroachment.	Five rupees.
186	...	Unlawful making of hole or placing of obstruction in street.	Ten rupees.
187	...	Construction, etc., of building without licence where street or footway is likely to be obstructed.	Do.
194	(*1*)	*Failure to obey requisition to round or splay off buildings at corners of streets.*	*Fifty rupees.*
195	...	Construction of external roofs, etc., with inflammable materials.	*Ten rupees.*
214	...	Failure to keep external walls of premises in proper repair.	Do.
220	...	Failure to obey requisition to repair, etc., tank or other place dangerous to passers-by or persons living in neighbourhood.	Do.
221	...	Failure to obey requisition to stop dangerous quarrying.	Do.
222	...	Failure to obey notice regarding precautions against fire.	Do.
224	...	Failure to obey requisition to fill up, etc., tank or well or drain of water, etc.	Do.
226	...	Failure to obey requisition to cleanse or close. etc., tank, well, etc., or other source of water used for drinking.	Do.
232	...	Failure to obey requisition to enclose, clear or cleanse untenanted premises.	Do.
233	...	Failure to obey requisition to clear or cleanse, etc., building or land in filthy state or overgrown with noxious vegetation.	Do.
234	...	Failure to obey requisition to fence building or land, or trim, prune or cut hedges and tree or lower an enclosing wall.	Do.

PENALTIES FOR CONTINUING BREACHES—(*Contd.*)

Section or rule. (1)	Sub-section or clause. (2)	Subject. (3)	Daily fine which may be imposed. (4)
235	...	Failure to obey requisition to lime-wash or otherwise cleanse building.	Fifty rupees
236	...	Failure to obey requisition to execute work or take other action with respect to insanitary buildings.	Ten rupees in the case of building and five rupees in the case of hut.
240	...	Unlawful keeping of animal so as to be a nuisance or dangerous.	Five rupees.
245	...	Use of place as stable, cattle-stand, etc., without licence or contrary to licence.	Ten rupees.
246	...	Construction or maintenance of stable, cattle-shed, etc., contrary to Act or subsidiary legislation.	Do.
247	...	Use of place as stable, cattle-shed, etc., contrary to notice issued by chairman.	Fifty rupees.
249	(*1*)	*Using a place for any of the purposes specified in Schedule V withau licence or contrary to licence.*	*Twenty rupees.*
250	...	Unlawful erection of factory, workshop, etc.	One hundred rupees.
251	...	Disobedience of order regarding abatement of nuisance.	Do.
255	...	Use of place as slaughter-house without licence or contrary to licence.	Fifty rupees.
258	...	Carrying on milk trade without licence or contrary to licence.	Five rupees.
262	...	Opening or keeping open private market without licence or contrary to licence.	One hundred rupees.
263	...	Sale or exposure for sale of animal or article in unlicenced private market.	Twenty rupees.
269	...	Carrying on butcher's, fishmonger's or poulterer's trade without licence, etc.	Ten rupees.
270-C	...	*Using a public place or the sides of a public street as a public landing place, etc.*	*Twenty rupees.*
270-E	...	*Opening or keeping open a new private cart-stand without licence or contrary to licence.*	Do.
279	...	*Using without licence a place for the disposal of the dead.*	*One hundred rupees.*
290	...	Failure to obey requisition to cleanse or disinfect buildings or articles.	*Ten rupees.*
298	...	*Failure to close place of public entertainment.*	*One hundred rupees.*
Rule 57 of Schedude IV.	...	Failure to obey requisition by auditors to attend, give evidence or produce document.	Twenty-five rupees.

Transitional Provisions.

(*sections as numbered in the Amending Act X of 1930.*)

*177. (1) *Notwithstanding anything contained in the said Act or in this Act—*

(*a*) (*i*) *the term of office of the members of every municipal council holding office on the date of the commencement of this Act shall, subject to the*

provisions of sub-section (2) of section 48 and sections 50, 51 and 60 of the said Act as amended by this Act, extend to, or expire on, as the case may be, such date as the Local Government may fix, and the Local Government shall cause elections to be held so that the newly elected members may come into office on the date fixed for the retirement of the old members ;

(ii) the Local Government may from time to time postpone any date fixed by them under sub-clause (i) and fix another date in lieu thereof ; and

(iii) any date fixed under sub-clause (i) or (ii) shall not be later than one year from the date of the commencement of this Act ;

(b) the chairman and vice-chairman of the municipal council shall, subject to the provisions of sub-sections 4 and 5 of section 12, section 40, and section 40-A of the said Act as amended by this Act, hold office up to, or vacate office on the date fixed under clause (a);

(c) a meeting of the municipal council shall be held on or as soon as may be after the said date on a day and at a time fixed by the Local Government or such other authority as may be empowered by them in this behalf for the election of the chairman and vice-chairman ;

(d) the term of office of the newly elected councillors or of the councillors elected in their places at casual vacancies shall expire at the end of three years, if the date fixed under clause (a) is the first day of November, and in other cases at the end of three years from the first day of November immediately preceding such date ;

(e) any vacancy in the office of chairman or vice-chairman of a municipal council which is in existence on the date of the commencement of this Act or which occurs before the date fixed under clause (a) shall be filled by election by the municipal council ;

(f) any such vacancy in the office of an appointed member of a municipal council shall be filled by appointment by the Local Government and in that of an elected member by election under the provisions of the said Act as amended by sections 40, 41, 43 and 45 of this Act and

(g) any person elected or appointed as chairman, vice-chairman or member of a municipal council under clause (e) or (f) shall hold office only up to the date fixed under clause (a).

Explanation.—The office of chairman, vice-chairman or member of a municipal council to which no person had, at any time prior to the commencement of this Act, been elected or appointed, shall be deemed to be vacant within the meaning of this section.

178. *Every municipality in which a water and drainage tax is levied on the date of the commencement of this Act shall, on or before such date as the Local Government may fix in this behalf, declare in accordance with the provisions of the first proviso to sub-section (1) of section 81 of the said Act as amended by this Act what proportion of the tax is levied for water works.*

179. *If any difficulty arises as to the first constitution or reconstitution of any municipal council after the commencement of this Act, or otherwise in first giving effect to the provisions of this Act, or of the said Act as amended by this Act, the Local Government, as occasion may require, may, by order, do anything which appears to them necessary for the purpose of removing the difficulty.*

[THE END]

APPENDICES

AND

SUBJECT INDEX

APPENDIX.-I

STATEMEMT OF OBJECTS AND REASONS.

INTRODUCTORY.

More than eight years have elapsed since the Madras District Municipalities Act, 1920, was passed into law. The necessity for amending certain provisions contained in the Act was felt soon after it came into force and early in 1923, the Government introduced a Bill (No. 2 of 1923) proposing extensive amendments. This Bill was referred to a select committee but it was subsequently withdrawn and circulated instead to all the municipal councils in the Presidency for their remarks with an invitation to suggest any other amendments which they considered necessary. Several members of the Legislative Council had also from time to time introduced various Bills to amend the Act. Bill No. 2 of 1923 was revised and considerably enlarged in the light of the remarks and criticisms offered by municipal councils as well as by members of the Legislative Council and the Bill as so revised was published in the *Fort St. George Gazette* in January, 1926 (Bill No. 1 of 1926). Another Bill very largely based upon this Bill and with some further changes, principally in the constitution of municipal councils, was prepared and circulated to municipal councils in September, 1928 and it was further examined by a conference of select members of the Legislative Council in December of the same year. The present Bill gives effect to the decisions of this conference.

SUMMARY OF MAIN CHANGES.

The main changes introduced in the Act by this Bill are—

(1) Abolition of the system of nominations to municipal councils with a limited exception in the case of Europeans and Anglo-Indians.

(2) Removal of the disqualification of women on the ground of sex to stand for election to municipal councils.

(3) General quinquennial elections to municipal councils.

(4) Entrusting all functions connected with elections to authorities prescribed by rules.

(5) Provision for a vote of no-confidence in chairmen and vice-chairmen of municipal councils and for the removal of chairmen and vice-chairmen by Government *suo motu*.

(6) Throwing open the office of chairman to election.

(7) Provision for the provincialization of officers or servants of municipal councils.

(8) The following alterations in the provisions relating to the levy of property tax :—

(*a*) A provision for the levy of the tax on lands at a lower rate than on buildings ;

(*b*) a provision for the levy of the tax on non-agricultural lands not appurtenant to buildings on the basis of capital value ;

(*c*) the repeal of the provision for the levy of the tax on the basis of extent; and

(*d*) a provision for the levy of a scavenging tax.

(9) The levy of companies tax on the basis of income instead of on the basis of capital.

(10) The restriction of the pilgrim tax to passengers leaving the municipal area.

(11) The restriction of the tax on carriages and animals and of the tax on carts to carriages, animals and carts kept within the municipality.

(12) The prohibition of the location of toll-stations on the boundary between two contiguous municipalities.

(13) A provision to secure control to the Legislative Council in respect of amendments to the Schedules.

(14) More effective provision for the adjudication of disputes between local authorities *inter se* including in particular the vesting of power in the Local Government to constitute joint committees of local authorities for the purpose.

ABOLITION OF THE SYSTEM OF NOMINATION.

The existing power of nominations has been attacked on several grounds one of which is that it is open to serious abuse. This Bill abolishes all nominations except in the case referred to below and throws open all the seats in municipal councils to election. The representation on municipal councils of the three most important minority communities and backward classes in the Presidency, namely, the Muhammadans, the Indian Christians, and the Adi-Dravidas or Adi-Andhras, is to be secured by the reservation of seats for them. Power has also been vested in the Government to make a similar reservation in favour of minority communities and backward classes other than those specified above. These reserved seats are to be filled by election by the general electorate throughout the municipality. Representation will thus be secured for these communities and classes without the medium of communal electorates.

It is however felt that so far as Europeans and Anglo-Indians are concerned the device of reservation of elective seats is not entirely suitable. The Bill therefore proposes to give power to Government to make not more than two appointments to any municipal council to represent Europeans and Anglo-Indians. Persons so appointed will be supernumerary members, but they will have all the rights of elected members.

WOMEN TO HAVE THE RIGHT TO STAND FOR ELECTION.

Women have the right to stand for election to local boards under the Madras Local Boards Act, 1920, and it is anomalous to deny them that right in municipal areas. It is therefore proposed to confer that right on them in municipalities also.

GENERAL QUINQUENNIAL ELECTIONS.

The present Act requires that elections should be held every year in respect of one-third of the number of the elective seats in municipal councils. The adoption of adult suffrage in the Bill will make elections

at short intervals very inconvenient and prohibitively expensive. It is therefore proposed to have a general election once in five years.

ENTRUSTING ALL ELECTORAL FUNCTIONS TO PRESCRIBED AUTHORITIES.

It is considered desirable to assign all functions connected with elections to municipal councils to authorities who will not be influenced by any party or personal feeling. The functions connected with the preparation of electoral rolls and the fixing of dates for holding elections which, under the present Act, vest in the chairman, have accordingly been assigned by this Bill to such authority as may be prescribed by rules made by Government.

It was originally the intention of Government to extend the franchise in municipal areas to all adults, but in view of the voluminous electoral rolls which this would involve and the vast amount of work it would cast upon the authorities to whom the electoral functions are to be entrusted, it was found impossible to carry out this intention and the restricted form of suffrage has accordingly been retained.

PROVISION FOR A VOTE OF NO-CONFIDENCE IN CHAIRMEN AND VICE-CHAIRMEN.

Deadlocks frequently arise from the fact that chairmen and vice-chairmen who have ceased to command the confidence of the majority in their councils continue to hold office. It is considered desirable that some machinery should be devised for preventing such deadlocks. A provision for making motions of want of confidence in chairmen and vice-chairmen similar to that obtaining in the Legislative Council in respect of Ministers has therefore been inserted in the Bill. If the motion, is carried by two-thirds of the sanctioned strength of the council the Government would be bound to remove the chairman or vice-chairman concerned. Where, however, the motion is carried by a smaller majority, the Government are given power to order such removal, if the interests of the municipal administration require it. Provision has been made against frivolous repetitions of motions of no-confidence. Power has also been taken to remove a chairman or vice-chairman who becomes incapable of attending to his functions or refuses or fails to carry out any provision of law ; the existing law makes it incumbent in such cases to take action against the council itself and this involves an inconvenient and sometimes an unjust procedure.

THROWING OPEN THE OFFICE OF CHAIRMAN TO ELECTION.

The provision made in the Bill for the removal of chairmen of municipal councils when a vote of no-confidence is carried against them may be expected to give municipal councils chairmen who will throughout their term of office be in agreement with the majority in the councils and it is therefore considered undesirable to deprive municipal councils elected on the very wide franchise proposed in the Bill, of the power to elect their chairmen. The Bill therefore proposes to throw open the office of chairman to election. Government will after the Bill has become law cease to have power to appoint the chairman except where a council is reconstituted after a dissolution or supersession.

PROVINCIALIZATION OF MUNICIPAL OFFICERS.

The present Act is so framed as to give to each municipal council and its chairman powers of exclusive control over the officers and servants of the municipality. In the case of the higher municipal

officers however like engineers and health officers, it is necessary to provide for security of tenure as well as for reasonable prospects of promotion, if the best candidates are to be attracted. It is also expedient that the Local Government or some other authority should have power to transfer these officers periodically from one place to another. With the consent of most of the municipal councils in the Presidency, municipal health officers have been formed into a separate provincial service. But doubts have been raised whether the constitution of such provincial services is warranted by the powers conferred upon the Government by the present law. It is therefore necessary to give clear statutory recognition to the present practice in respect of health officers and to provide for an extension of the same principle to other officers of municipal councils of analogous status. Provision has accordingly been made in general terms to provincialize with the consent of a majority of municipal councils any class or classes of municipal officers or servants and to prescribe the authority by which they should be appointed and controlled.

TAXES AND TOLLS.

The provisions relating to the levy of taxes and tolls have been materially altered.

The property tax will in future be a half-yearly and not a yearly tax. The Bill permits of the tax being imposed on lands at a lower rate than on buildings; and discretion has been given to municipal councils to adopt an alternative method of taxing non-agricultural lands which are not appurtenant to buildings, with reference to their capital value. The provision for taxing lands or buildings on the basis of their extent has been repealed and lands will hereafter be assessed either on their annual or on their capital value. Though the scavenging fee is payable in advance, its collection is often a matter of difficulty, and conferences of local bodies have asked for the conversion of the fee into a tax. Provision has therefore been made for the levy of a scavenging tax.

The Bill will remove several anomalies which now exist in the taxation of companies. Companies will in future be taxed on their income and not on their capital. Firms and associations declared by Government to be companies will also be liable to the tax. The scales of tax in Schedule IV, relating to the companies and profession taxes have been revised.

Pilgrims will under this Bill be taxed only once, namely, when they leave the place of pilgrimage during or after the occasion of the pilgrimage and at the railway station or stations in the immediate neighbourhood of such place. The maximum rates of pilgrim tax have therefore been doubled. A rate for the intermediate class has also been newly introduced.

The carriage and animal tax and the tax on carts will, in future, be levied only on carriages, animals and carts kept within the municipality. Carriages, animals and carts which are kept outside but are let out for hire within the municipality will not be liable to these taxes but will pay tolls instead. The exemption from the carriage and animal tax enjoyed by military officers and soldiers under section 100 has been restricted to cases where the residence of such officers and soldiers in the municipal area is due to the exigencies of military service.

Conflicts often occur between municipalities and district boards and between one municipal council and another in the matter of the location of toll-stations and the sharing of toll-income. The location of toll-stations on the boundary between two contiguous municipalities is therefore prohibited and power is reserved to Government to intervene in the interests of the public for the purpose of regulating the number and the location of toll-stations and the sharing of toll-income by neighbouring local authorities.

Amendment of Schedules

Under the existing Act, only the rules in Schedule II, Part II of Schedule IV, Schedule V and Schedule VI may be altered, added to or cancelled by means of rules. There does not appear to be any reason why Schedule III and Part I of Schedule IV should not also be amended similarly. Power has accordingly been taken to amend these Schedules also. A provision has been added requiring that a draft of the amendment proposed to any Schedule should be laid on the table of the Legislative Council for a period of not less than one month while the Council is in session. It will thus be open to the Legislative Council to express its opinion on the proposed amendment and to suggest modifications or amendments thereto.

Adjudication of disputes

A provision for dealing with the settlement of disputes between a municipal council on the one hand and any other municipal council or local authority on the other has been incorporated in the Bill. This provision, while primarily based upon section 234 of the present Local Boards Act, amplifies the scope of that section so as to provide for the settlement of any dispute whether arising under the District Municipalities Act or under any other Act. The Local Government are given power to take cognizance of the dispute and either decide it themselves or refer it for inquiry and report to an arbitrator, a board of arbitrators or a joint committee. In the latter case, the arbitrator, board or committee will submit his or its report to the Government who will pass final orders.

The appointment of joint committees of local authorities depends at present on the consent of all the local authorities concerned. Such consent is not always forthcoming and it is thought necessary to vest in the Government the power to direct the constitution of such committees whenever necessary. It is also desirable to give power to municipal councils in clear terms to frame regulations regarding the constitution, procedure, powers, etc., of joint committees. Where, however, the Local Government direct the constitution of a joint committee, they will have power to make such regulations themselves.

Miscellaneous.

The opportunity has been taken to remove various defects in the Act which have been revealed by experience.

Under the present Act, there is an interruption in the administration if the office of chairman falls vacant and there is no vice-chairman. The Bill therefore makes the election of a vice-chairman compulsory and further provides that the revenue divisional officer should take charge when the office of chairman is vacant and there is no vice-chairman. The procedure to be adopted when no councillor is elected and

when a councillor vacates his seat for failure to attend the meetings of the council has been modified. The disqualification of honorary magistrates for election or appointment as municipal councillors has been removed.

Persons who have been dismissed from the service of any local authority in the Presidency have been disqualified from being elected or appointed as members of local boards. Officers and servants of a local board who have resigned within a period of two years have been disqualified from being elected or appointed as members of any local board in the district. The procedure to be adopted when a member of a local board vacates his office for failure to attend the meetings of the local board has been modified.

Provision has been made for the issue of licences to motor vehicles plying for hire within the municipality, based upon the corresponding provision in the Local Boards Act.

Municipal councils have been empowered to declare certain places to be markets with the approval of the Local Government.

The conflict of jurisdiction which now exists between municipal councils and local boards in regard to the area within three miles of municipal limits in the matter of licensing slaughter-houses or places used for any of the purposes specified in Schedule V is proposed to be removed by making the previous sanction of the Local Government necessary for the exercise of jurisdiction by municipal councils in such areas and by exempting such areas from the jurisdiction of local boards by suitable amendments to the Local Boards Act. A general right of appeal against the grant or refusal of licences and permissions has been provided.

A few additions have been made to the matters in respect of which the Local Government might make rules under section 303 and to those regarding which the municipal council might make by-laws under section 306.

Under section 353 of the present Local Boards Act, the sanction of the Government is necessary for instituting suits for recovering compensation from members of local boards whose neglect or misconduct is alleged to have led to loss, waste or misapplication of the funds of the local board. It is not clear, however, whether the sanction of the local Government is necessary under the existing criminal law for the prosecution of presidents or members of local boards for acts done or purporting to be done by them in the discharge of their official duty. It seems highly desirable to clear up this position and new section 353-A inserted by the Bill provides therefor.

A provision for the establishment of a special tribunal to deal with appeals against assessments of taxes made by the chairman has been included in Schedule IV. The necessity for a provision like this has been felt in practice, especially in the larger municipalities.

The notes on clauses explain in detail the changes made by the Bill.

18*th July* 1929. P. SUBBARAYAN.

APPENDIX-II

SELECT COMMITTEE'S REPORT.

BILL No. 12 OF 1929.

To

THE HONOURABLE THE LEGISLATIVE COUNCIL OF THE GOVERNOR OF MADRAS.

We, the undermentioned Members of the Select Committee appointed to consider the Bill to amend the Madras District Municipalities Act, 1920 (Bill No. 12 of 1929), have the honour to make the following report.

2. The Bill was published in the *Fort St. George Gazette* in English on the 12th September 1929.

3. The Committee met on the 18th day of October 1929, to determine its procedure, on the 11th, 12th, 13th, 14th, 15th, 18th, 19th and 20th days of November to consider the Bill and on 7th December 1929 to pass its report.

4. The Bill has been subjected to a prolonged and careful scrutiny, and as a result, numerous changes have been made in it. The most important of these changes are mentioned below :—

Nominations :—(1) The Bill as introduced, while generally abolishing the system of nominations, allowed the representatives of the European and Anglo-Indian communities to be nominated by the Local Government as supernumerary members of a municipal council. It is thought unnecessary and undesirable to retain this exception. The representation of Europeans and Anglo-Indians can, wherever necessary, be secured by the reservation of seats for them as in the case of the Muslim or the Indian Christian community.

Reservation :—(2) The provision for compulsory reservation in every municipal council of seats for (1) Muslims, (2) Indian Christians, (3) Adi-Dravidas or Adi-Andhras, and (4) other minority or depressed classes or communities, has been altered into reservation at the discretion of the Local Government of seats for women and certain approved communities. On the one hand it may not be necessary in every municipality to reserve a seat for each of the communities mentioned in the Bill. On the other hand, it may be necessary in individual municipalities to reserve more than one seat for one or more of the communities and this may not be possible within the number of reserved seats specified as the maximum. The Committee has also considered it necessary to add to the list of the classes or communities for whom reservation of seats ought to be made (1) women, (2) Anglo-Indians and (3) Europeans. The necessary amendments have accordingly been made.

Election for reserved seats : --(3) For the reserved seats, the Bill proposed a system of election by all the voters in the municipality, while for non-reserved seats, the election was to be by the electors in each ward. This appeared to the Committee to be imposing a disability on the communities or classes on whom the privilege of reserved seats was conferred. In the opinion of the Committee, the best method of working out the system of reserved seats is so to divide a municipality into wards as to make it possible for certain wards

to return more than one member and to distribute the reserved seats among such plural-member wards. Except for the purpose of providing for reserved seats, the principle to be adopted should be 'one ward, one member.' This has been done. It has also been made clear that communities or classes for whom seats are reserved can stand for non-reserved seats and that the electorate for returning a member to a reserved seat shall consist of all the electors of the ward concerned, irrespective of community or sex.

Adult franchise:—(4) In the opinion of the Committee, the compactness of electoral areas and the existence of a reasonable percentage of educated electors in the municipalities of this province justify the immediate introduction of adult franchise in them. If the right of the depressed and backward classes to obtain representation by election, which has been recognized, is to be a reality, the abolition of property qualifications for franchise is necessary, as it is those classes that are most handicapped by the imposition of such qualifications. The Committee has accordingly decided in favour of adult suffrage.

Quinquennial elections:—(5) At the same time, the Committee has not been sufficiently impressed by the arguments of inconvenience in preparing electoral rolls and of expenditure on elections, to make it accept quinquennial elections as a necessary corollary to the adoption of adult suffrage. It considers that in the interests of efficiency and purity of local self-governing institutions and of the intimate touch which should exist between the member and his electorate, the electorate should be able to exercise their franchise at least once in three years.

Election authority:—(6) The Committee has agreed that the functions connected with elections to municipal councils should be entrusted to authorities prescribed by rules, but to ensure confidence in election proceedings, has made it clear that such authorities should be persons other than a chairman, vice-chairman or municipal councillor.

Deposit:—(7) The new power given to the Local Government by clause 122 of the Bill, to make rules demanding a deposit from a candidate for election as councillor, is accepted by the Committee, but Rs. 100 has been fixed as the maximum that can be demanded as such deposit. And, in view of the economic position of the depressed classes, candidates belonging to such classes have been exempted from any liability to make such deposit.

Government servants:—(8) To secure freedom of choice to the electors, Public Prosecutors, Government Pleaders, Honorary Magistrates and village officers have been disqualified for election as municipal councillors. Persons sentenced for political offences or for offences not involing moral delinquency have been exempted from the disqualification for election arising from the conviction and sentence of a criminal court. The Committee has inserted a provision that a chairman shall be deemed to have vacated his office on his election to the Legislative Council as a representative of an urban constituency which includes the municipal area.

Provincialization:—(9) The provision in the Bill for the provincialization of any class or classes of municipal officers or servants with the consent of a majority of the municipal councils has been omitted as the Committee considered that the scheme had not been worked out in the Bill in sufficient detail.

Profession-tax:—(10) The Bill sought to alter the classes of persons assessed to profession-tax and to enhance the maximum rates of half-yearly profession-tax leviable from them. The Committee considers that the existing classes and rates are suitable and that any alteration of the classification or enhancement of the rates is uncalled for. Co-operative societies have been exempted from profession tax.

Exemption from building tax:—(11) Provisions exempting buildings owned and occupied by co-operative societies and buildings or places dedicated to the charitable purpose of sheltering animals and the destitute from property tax have been inserted.

Land cess:—(12) A provision for the levy of a municipal land cess assessed on agricultural lands in urban areas and the payment of the same by the landholder and the tenant in equal shares, on the analogy of a similar provision in the Madras Local Boards Act, 1920, for the levy and payment of a land cess in rural areas has been introduced.

Vaccination:—(13) The Bill as introduced sought to vary the existing provision in the Act for compulsory vaccination (to the extent prescribed), by providing that vaccination shall be compulsory 'in respect of such persons and to such extent as may be prescribed'. The Committee has thought it best to recognize the growing strength of the conscientious objectors to a system of compulsory vaccination and to make vaccination optional, enjoining on every municipality, at the same time, to give facilities for vaccination for those who desire it.

Opportunity of explanation:—(14) In clause 29, the Committee has deleted the provision which sought to arm the Local Government with the new power of suspending or cancelling a resolution, order or permission of a municipal council or authority which in their opinion amounted to 'an abuse of the powers granted by the Act or any other law or to the commission of an offence or brought the Government into hatred or contempt'. The power of the Collector in an emergency to suspend a resolution or order of a municipal council or authority or to take other action of a similar kind has been taken away. And it has been made incumbent upon the Local Government, before taking action under section 36, to give to the municipal council or other authority concerned, an opportunity of explanation.

Removal of chairman or vice-chairman:—(15) The Committee has omitted the provision in the Bill vesting power in the Local Government to remove a chairman or vice-chairman for alleged incapacity.

Powers of Local Government:—(16) In several clauses, the Committee has deleted such words as "except with the sanction of the Local Government," "without the sanction of or a direction from the Local Government," "unless the Local Government shall otherwise direct," which had the effect of conferring powers on the Local Government to veto proposals made by a municipal council or to revise its actions or which enabled the Local Government to make exceptions to a general rule laid down in the Act. The following are examples :—

(i) *Clause* 4 (ii).—Power to declare a firm or association to be a company;

(ii) *Clause* 10.—Power to sanction receipt of remuneration by a councillor for services rendered by him to the Council.

(iii) *Clauses* 19 *and* 20.—Power to increase the number of outsiders in a municipal committee or in a joint committee of several municipal councils;

(iv) *Clause* 26.—Power to order that acts of municipal council shall be invalidated by informality;

(v) Power to sanction the diversion of the pilgrim tax to other purposes than the making of arrangements for the health and comfort of pilgrims or the improvement or development of the municipal area.

Confirmation of by-law:—(17) The provision empowering the Local Government, in confirming a by-law made by a municipal council, to make any change therein has been deleted.

Schedules:—(18) In respect of amendments to the schedules of the Act, the Committee has adopted the existing provisions of the Madras Local Boards Act according to which the Local Government will have to place any proposed alterations in the schedules before the Legislative Council and the latter will have power to approve the same, with or without modifications.

5. Minor changes:—Several other changes have been made in the Bill which it is unnecessary to set forth here. * * *

6. The amendments made by the Committee are so numerous and important that in its opinion the republication of the Bill is necessary.

(1) C. V. S. NARASIMHA RAJU (*Chairman*).*
(2) RAJA OF KHALLIKOTE.*
(3) N. SIVARAJ.*
(4) B. MUNISAMI NAIDU.*
(5) P. C. VENKATAPATHI RAJU.*
(6) R. SRINIVASA AYYANGAR.*
(7) J. A. SALDANHA.*
(8) BISWANATH DAS.
(9) A. RANGANATHAM.
(10) B. VENKATARATNAM.*
(11) S. K. ABDUL RAZAACK.*
(12) C. VENKATARANGAM NAIDU.*
(13) C. N. MUTHURANGA MUDALIAR.*
(14) A. P. PATRO.*
(15) F. E. JAMES.*
(16) H. F. P. HEARSON.*
(17) J. A. DAVIS.*
(18) G. HARISARVOTTAMA RAO.
(19) S. KUMARASWAMI.*
(20) K. SITARAMA REDDI.*
(21) P. SUBBARAYAN.*
(22) S. SATYAMURTI.*
(23) A. KRISHNASWAMI.*
(24) V. I. MUNISWAMI PILLAY.*
(25) R. SRINIVASAN.*
(26) T. ADINARAYANA CHETTY.*
(27) MAHMUD SCHAMNAD.
(28) S. A. NANJAPPAH.*
(29) T. M. MOIDOO.*
(30) A. B. SHETTY.*
(31) T. G. RUTHERFORD.
(32) C. GOVINDAN NAIR*
(33) HILTON BROWN*
(34) S. ARPUDASWAMI UDYAR*
(35) C. S. RATNASABAPATHI MUDALIAR*
(36) P. C. ETHIRAJULU NAIDU*
(37) BASHEER AHMED SAYEED*
(38) A. M. AHMED MIRAN*
(39) A. KALESWARA RAO*
(40) K. R. KARANT.

* Subject to a minute of dissent.

[*Paragraph headings are ours*]

EXTRACTS FROM MINUTES OF DISSENT.

Adult Franchise:—The extension of the franchise to all adults which is recommended by the Select Committee would, quite apart from any question of principle, involve the preparation of voluminous electoral rolls and cast a vast amount of work upon the authorities to whom the functions connected with elections are to be entrusted. It would be almost impossible to discover an authority who could undertake extra work of this magnitude. For the present, we would be content with the very wide enlargement of the electorate proposed in the Bill as introduced.

Provincialization of municipal service:—We consider that the provision in the Bill for the provincialization of any class of municipal officers or servants should be retained. It would assure security of tenure and reasonable prospects of promotion to the officers and would also facilitate their periodical transfer from one municipality to another. The provision that no scheme for provincialization can be framed without the consent of a majority of the municipal councils, seems to us to be a sufficient safeguard.

Profession tax:—While we agree with the decision of the Selec- Committee to restore the rates of profession tax in the present Act, in so far as incomes below Rs. 2,000 per month are concerned, we do not see sufficient reason why the rates in the case of higher incomes should not be enhanced in some degree, if not to the extent proposed in the Bill.

Vaccination. We dissent from the recommendation of the Select Committee to make vaccination optional. We do not think that the sanitary and hygienic conditions of the country are sufficiently far advanced to permit of recognizing 'conscientious objectors' in a matter which vitally affects public health. Vaccination should, in our opinion, continue to be compulsory.

Emergency powers of collector. We are unable to agree to the omission of section 36 (2) which gives emergency powers to the district collector. Emergency powers must, to be fully effective, be exercised by the authority on the spot. Collectors have used these powers sparingly in the past and we do not consider that any case has been made out for the omission. We would further point out that the collector's action is only provisional and subject to reversal by the Government.

Deprivation of office of chairman:—We consider that the chair man should not be deprived of his office merely because he is elected to the Legislative Council as a representative of an urban constituency which includes the municipal area.

Devolution of chairman's functions:—The decision of the Select Committee to omit section 18 (6) (clause 15 of the Bill) which provides for the devolution of the chairman's functions in cases where the chairman leaves the jurisdiction without delegating his functions to a councillor would result in a lacuna. Section 18 (6) of the Bill is similar to

section 12 (9) (clause 11 of the Bill) which provides for the case where the office of chairman is vacant. We consider that the interruption in the municipal administration in the former case should be treated in the same manner as the interruption in the latter.

Amendments proposed:—The amendments proposed to sections 71, 72 and 76 by the Government Bill bring the sections into accordance with the existing conditions. These sections should therefore in our opinion be retained in the form in which they are found in the Government Bill.

Notice to owner or occupier. Rule 9 of Schedule IV as amended by the Select Committee makes the service of a special notice to the owner or occupier of every assessed property necessary whenever a general revision of the assessment takes place. We feel that this provision would add considerably to the work of the municipal establishment and lead to much inconvenience in practice. We are therefore opposed to it.

P. SUBBARAYAN.
HILTON BROWN.
C. GOVINDAN NAIR.
T. G. RUTHERFORD.

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Principle of local self-government. The cardinal principle of all local self-government is held to be the power to act independently of all external control but unforunately that principle was not recognized in this Bill. If local bodies are not given the right to manage their own affairs within the limits of law it is a mockery to call those bodies self-governing institutions. The functions that are entrusted to them may as well be taken over by the State into its own management. Even ten years back the Montford Report wanted that there should be the largest possible independence for them of outside control. In Switzerland where central control is at a minimum the local administration is found to be remarkably efficient. In my view the only safeguard to ensure efficiency and honesty in the working of the local bodies should be the legal control by judicial courts. It is of the utmost importance to the constitutional progress of the country that the local bodies should be completely autonomous. To ensure such autonomy and to improve some minor matters the Bill needs amending in many directions by the Council.

P. C. VENKATAPATHI RAJU.

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Tax on companies:—The Bill as it stands gives the chairman of a municipality complete powers to tax companies on what he may deem their income to be, and this wide and vague discretion could not be acceptable under any conditions. It is doubly dangerous in view of the manifest weakness of the machinery for collecting companies and profession tax, and of the discriminatory nature of the measure.

Serious amendment is therefore necessary in this connexion—

(*a*) Income must be defined as net profit as computed for income-tax in the Income-tax Act.

(*b*) Machinery must be devised to make the calculation of such profit more or less automatic. Modern commerce is too complicated for a precise and concise statement of profit earned by a large company in any one municipality to be furnished in most cases. In such cases profit must therefore be laid down as an appropriate assumed percentage of turnover. This percentage again must be kept at a very low figure, for any one with any knowledge of commerce recognizes that a large proportion of the business of the country is done with little or no profit, or even at a loss, and that it is generally true that the larger the turnover, the smaller the percentage of gain.

(*c*) The scale of half-yearly maximum tax must be restored to its old dimensions, with Rs. 250 as the highest figure.

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F. E. JAMES.
H. F. P. HEARSON.

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Reservation of seats:—The provision in the Bill for compulsory reservation of seats for the minorities is not an ideal method of securing proper representation of these classes. Between the system of nomination, which is alleged to be liable for abuse of power and reservation of seats in the general electorate, there is not much to choose between, so far as proper representation is concerned. In the latter case, the majority community or the party in influence and power might easily manipulate the situation and select such persons as would fall in with their political creed though he would not be in any sense a representative of the class or community. There is demand for seperate electorates. While this system is a disintegrating factor against the development of national spirit and union, it is none the less advantageous to the special community, a class for whose benefit either the reservation or nomination is agreed to. The most desirable principle and the one which is the ideal to be attained is to eliminate all such distinctions and create confidence among the minority community to rely on the general electorate. The past sometimes warns them and until the electorate is more educated politically to treat all alike in the interests of national advancement the claim for special privileges must be recognized though a necessary defect in the politics of the country. Reservation of seats in a municipal area, at the rate of one member for each ward, is fraught with practical difficulties. The distribution of population in the wards is so uneven and wholly without any reference to class or community, the application of the principle of reservation becomes impracticable unless wards with more than one member are formed. The Committee was opposed generally to plural constituencies. What part or parts of the municipality would be chosen for reservation of seats and allow more than one member to represent the ward which is formed on the same basis of the strength of voters as other wards?

How could one ward represent two members for the same number of vote while the others are represented by one member? Proper solution of this important question is very necessary. The difficulty may be overcome by insisting on the rate-payers of the municipal council belonging to the minority community to form ratepayer's associations and they should be assisted to organize themselves into regular corporate bodies, e. g., the Depressed Classes Organization. These organizations may select a certain number of candidates from among themselves or from the community and these candidates whenever it is practicable may be allotted to wards where the community rate-payers are fairly in large numbers. If there is no possibility of allotting them to the wards for election, then the Governor of the Province shall have the power of nominating one or more from the list of members selected by the rate-payers' association. This system is free from the taint of favouritism alleged in the case of nominations as such or reservation as such. The rate-payers select proper persons to represent them. The responsibility is on them primarily and therefore less open to criticism. Reservation of seats is least effective to eliminate communal tendencies. The non-Brahmans do not agree to reservation of seats for Legislative Council. This was imposed upon them in the scheme of 1921. The memorandum presented before the Indian Statutory Commission does not support the present system.

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Prescribed authority:—It is a retrograde step to take away the right and power of the municipal council and its chairman to conduct elections of the municipal area. Before the present Act, the preparation of electoral rolls and conduct of elections was with the official agency. The Royal Commission on Decentralization recommended that in order to create responsibility among the public men, they should be given power to manage their own affairs. There might be irregularities and in a few cases abuses of power but public opinion must rectify the evil, if any. If the public are not educated properly and if civic responsibility has not developed so far as to create mutual trust among public men, statutory restrictions do not form effective means of remedying it. It depends upon the character and capacity of our public men and the political education of the rate-payers. It is very easy to raise a cloud of suspicion by 'party' men. Persons who failed at elections may attribute motives but the honest public never lends its ear to such malicious allegations. "Caesar's wife must be above board" is often repeated without any justification—a case here and a case there may occur, but they are exceptions. For the sake of a few delinquents if at all, the entire system should not be discredited. Personal discomfitures and annoyances should not be carried too far into destroying national interests. It is too much to presume that similar complaints would not be alleged against any official agency as long as caste or communal cancer exists in society. To allege incompetency is to make a serious indictment against those public men who have been disinterestedly devoting their time and energy for public service and established noble traditions of civic administration and responsibility. It is entirely shortsighted to curtail or restrict the responsibility of municipal chairman. I am not in favour of transferring the duties to "prescribed authority" outside the municipalities and local boards. The official agency was tried and was found to be useless from the civic point of view.

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Motion of no-confidence :—The Bill as amended gives power to Local Government to remove the chairman or vice-chairman—clause 31 and section 40 of the Act. This is unnecessary and undesirable as under clause 29 and section 36, Government have power to suspend or cancel resolution or order and under section 40-A, motion of no-confidence is allowed against the chairman. If the motion is carried with the support of not less than two-thirds of the sanctioned strength of the council, the chairman or vice-chairman shall be deemed to have vacated his office as such. When public opinion expresses so unequivocally in the matter, the chairman goes out. If there is any matter in which there is difference of opinion between him and the Government, the municipal council must have the right to express its opinion, and Government should not have drastic power of removing him because he and the council are unable to carry out any order of Government or other provisions of the Act. If he does not carry out, power is vested in the Government to have it done and charge the expenditure to the municipality. The public and the municipal council is the proper authority to set right an erratic chairman. Otherwise, there would be a tendency to consider himself a part of the Local Government instead of an independent public servant at the head of civic affairs of the city. The provision seems unnecessary.

A. P. PATRO.

Executive officer :—We dissent from the report with great regret as we are in agreement with most of the provisions of the Bill as amended by the Select Committee. We are strongly in favour of an executive officer at least for major municipalities being statutorily provided for, subject to the control of the council in matters of policy. We are also in favour of the provincialization of municipal services at least as an optional basis as provided for in the Bill, in the interests of building up an efficient municipal service. We consider that the financial provisions of the Bill require reconsideration, especially those relating to the companies tax and the profession tax.

S. SATYAMURTI.

N. SIVARAJ.

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Man of the people :—Instead of the municipal councillors electing a chairman it will, I think, be a distinct improvement if all the rate-payers are allowed the privilege of electing him from among the councillors. This will really make the chairman thus elected 'a man of the people' bound to look after and promote their interest.

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R. SRINIVASA AYYANGAR.

Tax on company and turnover :—*Companies tax—Section* 92.—We suggest that clauses 2 and 3 of section 92 be omitted and the following substituted on the same lines as has been done in the case of the Madras Local Boards Act.

(1) Where business is carried on in a local area, the basis for determining companies tax shall be the income calculated for assessing to income-tax under section 10 of the Income-tax Act.

(2) Where such income is not ascertainable, the turn-over shall be the basis.

(3) When business is carried on in more than one local area, the turn-over of the business shall be the basis for calculating the companies tax in each local area.

(4) When returns are not submitted by the persons concerned, the chairman shall have the right to determine the income subject only to an appeal to the municipal council concerned whose decision shall be final.

(5) In cases where the returns submitted are, in the opinion of the chairman, not reliable, he shall have the discretion to determine the income subject to a similar appeal to the council.

(6) For purposes of calculating companies tax for any half-year, the income or turn-over of that half-year shall be taken to be the income or turn-over of the corresponding half-year of the previous year.

(7) In cases where returns of income-tax are submitted, the income on which income-tax has been finally assessed, shall be accepted by the chairman as correct.

(8) 'Turn-over' means the sum total of the value of purchase or sale.

(9) The Government may make rules subject to the approval of the Legislative Council, fixing the percentage of the turn-over which is to be regarded as the income for the purpose of calculating companies tax.

Provided—

(i) When delivery is effected on account of purchase by an individual, partnership or company in one place in the Presidency and on account of the sale by the same individual, partnership or company in another place in the Presidency, the latter delivery alone will be taken into consideration for the purpose of determining the turn-over.

(ii) The same rule will apply to cases where goods are purchased outside the Presidency, but sold within a local area in the Presidency.

(iii) In cases where goods are bought within a local area in the Presidency and sold in a place outside the Presidency, the purchase within the Presidency will be taken into account for determining the turn-over.

S. K. ABDUL RAZAACK.
N. SIVARAJ.
A. B. SHETTY.
S. KUMARASWAMI.
S. SATYAMURTI.
B. VENKATARATNAM.
T. M. MOIDOO.
S. A. NANJAPPAH.

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Deposit:—Thirdly, I must express my dissent to the provision in the Bill which was accepted by the Committee, that candidates for election to municipalities should pay a deposit of not exceeding Rs. 100

before they are nominated for election. I contend that this is a very undemocratic provision. I fear that even among candidates belonging to communities other than Adi-Dravida or Adi-Andhra, there are likely to be persons who are too poor to pay a deposit of Rs. 100. It is not proper that we should shut out such persons from standing for election. In fact, poverty in any community should not be a bar to stand for an election. I therefore hold that candidates for election should not be required to make any deposits at the time of nomination.

C. N. MUTHURANGA MUDALIAR.

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Regulation of traffic :—*Clause* 98—*Section* 174-*A* (2).—This clause should, in my opinion, also contain provision vesting power in the municipal council to determine the places from which such vehicles shall pick up, and the places at which they shall set down, passengers.

C. S. RATNASABAPATHI MUDALIAR.

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Appeal :—I am of opinion that some provision should be made for enabling a municipal servant or officer—whose pay exceeds rupees fifty per mensem—to appeal against suspension or dismissal by the municipality either to the Local Government or to an Appeal Board consisting of, say, the district collector, a member of the municipal council and either the president of the district board or of the taluk board who is in the headquarter town of the municipality.

T. ADINARAYANA CHETTY.

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Supersession :—I regret that in this Bill the question of abolishing all powers of supersession of municipal councils could not be discussed. I hope they will be abolished through Bill No. 17 of 1928. With regard to the question of dissolution and reconstitution, I wish to point out that the Select Committee has overlooked the encroachments made by the Government through this Bill on local self-government. Instead of reconstituting *immediately* the dissolved councils as under the existing Act, the Government according to this Bill can fix a time for reconstitution and also can extend the time so fixed from time to time in its discretion for the reconstitution of a council which has been dissolved. To say the least, I shall only submit that it is dangerous to give such powers to the Government.

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Delegation :—The powers of delegation of the Government to subordinate officers under section 363 ought to have been either removed or narrowed to merely formal matters.

Appointment of special officer :—The new provision inserted in the Bill conferring the power on the Government to appoint a special officer whenever it likes to impose taxes and to hear appeals in respect of assessment and imposition of taxes in municipalities is most reactionary and subversive of all canons of self-government. The Select Committee ought to have deleted this provision.

A. KALESWARA RAO.

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Collection of tax:—The abolition of property or other qualification will result in another disadvantage, the difficulty of collecting all taxes or arrears of taxes due to the municipality. At present the provision that a voter should before the 31st of March, have paid all taxes due by him operates as a stimulant for the prompt payment of taxes in order to retain the right of voting. This incentive will disappear with the abolition of payment of tax as a qualification for the exercise of the franchise.

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S. ARPUDASWAMI UDAYAR.

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Representation of minorities:—We are sorry that we cannot agree with our hon. colleagues in the manner in which they have proceeded to provide for the representation of minorities in the municipal councils. In this country, the recognition of minorities can be, and has hitherto been, only on the broad basis of the divergence in religious beliefs and practices and difference in culture; in fact even this guiding principle has not always been kept in view. But the classification and the enumeration of minorities as recommended by the committee seems to be neither on the basis of religion, nor on any other approved or consistent principle. We can quite concede the population of a municipality being divided into Hindu, Muslim and Christian, but we cannot conceive of the Hindu population being split up into caste Hindus, depressed classes and non-depressed classes; or the Christians into Europeans, Anglo-Indians, Indian Christians and depressed classes converted to Christianity; or the Muslims into Shiyas, Sunnis and depressed Muslims of which last type, we have a large number, for instance, in the Tirukkoyilur and Kallakurchi taluks of the South Arcot district. If it is contended that from a national point of view, the division of the civic population according to broad religious differences is pernicious enough, to extend such a division to further and lower grades of the community is quite absurd and unwarranted; and in our opinion this will certainly lead to the perpetuation of communalism, instead of minimising the separatist tendency or fostering the feeling of joint civic responsibility among the component parts of a single civic population. In so far as the depressed classes are part and parcel of the wider Hindu community, if the Hindu community feels it just and fair that the depressed classes should have representation in municipal councils, it should be a matter of mutual adjustment between the caste Hindus and the depressed classes and this can be easily achieved by certain conventions being established amongst themselves in connexion with the elections to the various wards in a given municipality. So also with regard to the Europeans, Anglo—Indians and Indian Christians, neither of whom do possess any essential differences in religion, but form only different sections of the same community, called the Christian brotherhood. Nor does it appear to us that any of these sections of the Christian community have any interest which may be considered as special or peculiar to the one as distinguished from the other. In this place, we regret we have to deprecate the enthusiasm and zeal with which several of our colleagues strove to ensure reservation for the European community little remembering at the time, their own self-respect or the treatment which is being meted out to their brethren in the colonies and elsewhere outside India. We therefore are of opinion that, having regard to the exigencies of the present political situation and the deep and unmistakable differences existing between the communities, the division of any civic population should be only as Hindus, Muslims and Chris-

tians, and that any further division of these communities will be only artificial and detrimental not only to the healthy growth of the population but also to the interests of the country at large. We may also note in passing that when the generality of the Christian community has often expressed itself against separate representation or at any rate, does not press for it, it is neither wisdom nor nationalism to thrust separate representation upon them. Nor does it seem to be reasonableness to import racial considerations in dividing the Christian community.

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Nomination and Reservation:—Again, while the main object of amending this Act has been stated to be the abolition of the power of nomination and to stamp out the corruption and demoralization that has set in on account of the power of nominations, we are sorry to note that by the amended clause of the Bill, the same state of affairs is sought to be perpetuated, whether consciously or unconsciously we are not able to say; for, whereas according to the old Act, individuals had to dance attendance upon and become subservient to the powers that be on account of nominations, the present amendment makes the whole community so conduct itself as to be in the good books of the powers that be, all for ensuring the inclusion of their community in the list of reserved seats. From this, it will be plain that by having vested discretion with the Government in the matter of determining the seats and the number of communities for whom there should be reservation in a given municipality, the power of nomination is still retained though in a different form, but with a wider scope than before. It will not be surprising if in future influential deputations from various communities from different municipalities are seen waiting upon the Minister for Local Self-Government just to coax him to include their community in the list of reservations. If that were to be the case, it can hardly be said that the evils and pernicious effects connected with the power of nomination have been effectively rooted out by the amended clause. We are therefore of opinion that the discretion should be taken away and reservation should be statutorily recognized in the case of two or three minority communities alone, without any further subdivisions or without any restriction to the proportion of seats set apart for reservation and that reservation for women should also be taken away, as there is no case made out for such a course.

Communal rotation in chairmanship:—Before concluding, we wish to point out that in order to give opportunities to members of all the communities in acquiring administrative ability and experience and to enable them to contribute their best to the harmonious working and growth of the municipalities, provision should be made for the choice of the head of the municipality, at least in some of the municipalities, if not in all, by rotation from each of the three important communities. Besides, we consider that such a provision will go a long way in bringing up the less advanced communities to the level of the more advanced ones and will remove the great and persistent grievance of the Muslim community which has been always ignored and overlooked by the Government and the majority communities, in spite of the best efforts of its representatives. It is a pity that our attempt to redress this grievance was not met with any success in the Committee.

BASHEER AHMED SAYEED.
A. M. AHMAD MIRAN.

[The paragraph headings are ours.]

APPENDIX-III

THE INDIAN PENAL CODE.

CHAPTER IX-A.

OF OFFENCES RELATING TO ELECTIONS.

"Candidate," "Electoral right" defined.

171-A. For the purpose of this chapter :—

(*a*) "candidate" means a person who has been nominated as a candidate at any election and includes a person who, when an election is in contemplation, holds himself out as a prospective candidate thereat: provided that he is subsequently nominated as a candidate at such election;

(*b*) "Electoral right" means the right of a person to stand, or not to stand as, or to withdraw from being, a candidate or to vote or refrain from voting at an election.

Bribery.

171-B. (1) Whoever :—

(i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or

(ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right, commits the offence of bribery :

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

(2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.

(3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.

Undue influence at elections.

171-C. (1) Whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.

(2) Without prejudice to the generality of the provisions of subsection (1), whoever—

(*a*) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or

(*b*) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (1).

(3) A declaration of Public policy or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section,

Personation at Elections.

171-D. Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name,

and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election.

Punishment for Bribery.

171-E. Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both:

Provided that bribery by treating shall be punished with fine only.

Explanation.—'Treating' means that form of bribery where the gratification consists in food, drink, entertainment, or provision.

Punishment for undue influence or personation at an election,

171-F. Whoever commits the offence of undue influence or personation at an election shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

False statement in connection with an election.

171-G. Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate shall be punished with fine.

Illegal payments in connection with an election.

171-H. Whoever, without the general or special authority in writing of a candidate, incurs or authorises expenses on account of the holding of any public meeting, or upon any advertisement, circular or publication or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees:

Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

Failure to keep election account.

171-I. Whoever being required by any law for the time being in force or any rule having the force of law to keep accounts of expenses incurred at or in connection with an election fails to keep such accounts shall be punished with fine which may extend to five hundred rupees.

APPEDNIX-IV

THE MADRAS DISTRICT MUNICIPALITIES ACT, 1920

REPEALED SECTIONS RELATING TO ELECTION OFFENCES

Election offences

Offences in respect of electoral list.

52. (1) Every person who by claiming a qualification to vote or to be elected which he knows he does not possess or by using false documents or by a false declaration or by any other deceitful means procures the improper entry of any name in the electoral roll or the improper omission of any name therefrom shall be punished with imprisonment of either description which may extend to three months or with fine or with both.

(2) Every municipal officer or servant or polling officer who wilfully makes or procures any improper entry in the electoral roll or any improper omission therefrom shall be punished with imprisonment of either description which may extend to six months or with fine or with both.

Case Law : Secs. 52 to 58 :—An allegation that any of the offences described in sections 52 to 58 of the Act has been comitted, may be enquired into by the Court and ought to be enquired into on an application under Rule 11 (a). 57 M. L. J. 551.

Sec. 52 :—The petitioners (two electors) applied to set aside the election of the counter-petitioner. They alleged that the counter-petitioner had by deceitful means procured the improper entry of names in the electoral roll, an election offence under section 52 of Act V of 1920. The Subordinate Judge declined to give any opinion in the matter, because, as regards the electoral roll, the orders passed by the revising authority were final, and no failure to observe dates or directions shall entitle any one to question the validity of the registers in election proceedings. *Held* that the Court cannot refuse jurisdiction in this matter and must go into the question whether the offence described in section 52 was comitted.

The charge connected with section 52 can be re-opened.—54 M.L.J. 269 = 26 L. W. 323 = A.I.R. (1927) Mad. 921.

The chairman of a municipality is not an officer of the municipality within the meaning of section 52 of the District Municipalities Act and consequently cannot be prosecuted for an offence under clause (2) of that section. (48 M.L.J. 696 FOLLOWED).

No previous sanction of the Local Government under section 171 (1) of the Code of Criminal Procedure is required before instituting a complaint againstt he chairman of a Municipality under section 54 (a) and (b) of the District Municipalities Act, where the acts alleged against him cannot be said to have been committed by him when acting in the discharge of his official duty. 50 Mad. 754 = 52 M. L. J. 647 REFERRED TO). 57 M.L.J. 331.

Bribery.

53. (1) Every person who with intent to procure in the interests of himself or any other person the vote of any voter or his abstention from voting or the withdrawal of a candidate—

(*a*) lends or agrees to lend, offers, promises or gives to any person, any property, money, valuable security, public or private employment or any gratification whatever other than a benefit affecting the public in general, or

(*b*) offers, promises or gives to any person the means of obtaining an electoral qualification for himself or any other person,

shall be punished with imprisonment of either description which may extend to six months or with fine or with both.

(2) Every voter or candidate who accepts any such offer, promise or gift or contracts for or accepts a loan as a motive or reward for voting for abstaining from voting or for withdrawing his candidature shall be punished with the same punishment.

Explanation.—No agent, clerk, messenger or other person who may in accordance with rules made by the Governor-in-Council be employed for remuneration by a candidate at an election shall by reason of such employment alone be deemed to be within this section.

Undue influence. **54.** Every person who—

(*a*) threatens any voter or candidate with injury to his person, reputation or property, or to the person or reputation of any one in whom he is interested with intent—

(i) to induce such voter to vote for any candidate or to abstain from voting, or,

(ii) to induce such candidate to withdraw his candidature, or,

(*b*) (i) commits wrongful restraint,

(ii) publishes statement which he knows to be false and which materially affect a candidate or his election, or

(iii) employs any deceitful means, and thereby prevents the free exercise of the right of any voter or candidate,

shall be punished with imprisonment of either description which may extend to six months or with fine or with both.

Case Law : Sec. 54 (a) :—The privilege of immunity from prosecution without sanction only extends to acts which can be shown to be in discharge of official duty or fairly purporting to be in such discharge. An offence arising out of abuse of official position by an act not purporting to be official does not require sanction under section 197 of the Code of Criminal Procedure. [(1916) M.W.N. 384 FOLLOWED].

"The offence of criminal breach of trust is not an offence which is committed by the Chairman in his capacity of public servant as such." I. L. R. 50 Mad. 754=52 M.L.J. 647=25 L. W. 608.

Sec. 54 (a) and (b) :—No previous sanction of the Local Government under section 197 (1) of the Code of Criminal Procedure is required before instituting a complaint against the chairman of a municipality under section 54 (a) and (b) of the District Municipalities Act, where the acts alleged against him cannot be said to have been committed by him when acting in the discharge of his official duty. (I. L. R. 50 Mad. 754 REFERRED TO).

Whether previous sanction of the Local Government is required under section 196 of the Criminal Procedure Code before instituting a complaint against a Municipal chairman under section 54 (a) and (b) of the Act ? (19 L. W. 201 REFERRED TO), 57 M. L. J. 331.

Sec. 54 (b) (ii) :—It is not an offence under section 54 (b) (ii) of the District Municipalities Act to make a statement concerning a candidate for municipal election in these terms: "He failed in getting elected in his own place and has come to some other place expecting to be elected." 47 M. L. J. 199=A.I.R. (1924) Mad. 815.

55. (1) Every person who applies for a ballot paper at an election, having already voted once at the same election or knowing that he is not qualified to vote thereat, shall be punished with imprisonment of either description which may extend to six months or with fine or with both.

Fraudulent voting and personation.

(2) Every person who applies for a ballot paper in the name of any other person living or dead, or of a fictitious person, shall be punished with the same punishment.

Case Law: Sec. 55 (1):—Certain persons were charged with abetment of an offence under section 55 (1) of Act V of 1920, the substance of the charge being that they abetted a case of double voting. The argument was that the offence of abetment of double voting can be charged only under section 171-D, Indian Penal Code. If that is so, previous sanction of the Local Government is necessary for prosecution, but the detailed procedure set out for putting in a charge under section 55 of Act V of 1920 still remains in force. Hence, no court can refuse a complaint duly put in regarding an offence under that section and that offence being cognisable by a court, the court cannot refuse to apply section 40 Indian Penal Code to an abetment thereof. 19 L. W. 201=A.I.R. (1924) Mad. 487.

The accused were charged with the abetment of an election offence in an application for a second voting paper by a person who has already voted once at the same election under section 55 (1) of Act V of 1920. In order to constitute abetment of an offence under a local law the provisions of the Indian Penal Code can apply. 19 L.W 201=A.I.R. (1924) Mad. 487.

Offences by polling officers.

57. Every polling officer who permits a person to vote knowing that such person is not entitled to vote, or who prevents a person from voting knowing that such person is entitled to vote, shall be punished with imprisonment of either description which may extend to six months or with fine or with both.

Falsifying result of election.

58. Every person who in the course of electoral operations falsifies or attemps to falsify the record of an election by removing, destroying, altering or fabricating nomination papers or voting papers or by any other act or by any omission, shall be punished with imprisonment of either description which may extend to one year or with fine or with both.

Procedure before Magistrate.

59. No magistrate other than a first-class magistrate shall take cognizance of any offence punishable under sections 52 to 58 (both inclusive) nor shall he take cognizance—

(*a*) except on the complaint of a person whose name is on the electoral roll, and

(*b*) unless such complaint has been made within seven days of the date of the declaration of the result of any election to which the offence relates or within seven days of the date on which the offence is alleged to have been committed, and

(*c*) unless the person complaining shall have deposited Rs. 200.

An appeal shall lie to the district judge from any conviction and sentence passed under sections 52 to 58.

Case Law: Sec. 59:—The provisions of section 59 are obviously introduced into the Act partly with the object of preventing stories of election offences being invented and worked up at leisure by disappointed candidates or their partisans. Therefore if vague complaints are accepted and the complainants allowed to fill in the details afterwards, that object will be defeated. 57 M,L.J. 331 (343).

Sec. 59. (c):—Under section 59 (c) deposit is a condition requisite for the filing of a valid complaint. Where the complainant fails to establish his case the Act is silent with regard to what is to happen to this sum. Presumably the deposit is intended as security for costs incurred by the accused and compensation, if any, payable. The complainant has not been ordered to pay costs or compensation. The intention of the Legislature must be taken to be that in the circumstances the amount should be refunded to the complainant. 47 M.L.J. 199=A.I.R. (1924) Mad. 815.

OATH OF ALLEGIANCE

THE MADRAS DISTRICT MUNICIPALITIES AND LOCAL BOARDS ACT
(AS AMENDED BY MADRAS ACT I OF 1930)

An Act to amend the Madras District Municipalities Act, 1920, and the Madras Local Boards Act, 1920.

Preamble.

Whereas it is expedient to amend the Madras District Municipalities Act, 1920, and the Madras Local Boards Act, 1920: It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras District Municipalities and Local Boards *Further* (*Amendment*) Act, 1929.

Oath to be made by new Municipal Councillors.

2. (1) Every person who is elected or appointed to be a councillor of a municipal council *or who becomes an ex-officio councillor of a municipal council* shall before taking his seat make, at a meeting of the council, an oath or affirmation of his allegiance to the Crown in the following form namely :—

I, A. B., having been elected a / having been appointed a / *having become an ex-officio* councillor of this council, do solemnly swear (or affirm) that I will be faithful and bear true allegiance to His Majesty the King-Emperor of India, his heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter.

(2) Any person who having been elected or appointed a councillor *or having become an ex-officio councillor* fails to make within three months of the date on which his term of office commences *or at one of the first three meetings held after the said date* the oath or affirmation laid down in sub-section (1) shall cease to hold his office and his seat shall be deemed to have become vacant.

3. [Repealed by Act IV of 1925]

Oath to be made by new members of local boards.

4. (1) Every person who is elected or appointed to be a member of a local board or who becomes an ex-officio member of a local board shall before taking his seat make at a meeting of the board, an oath or affirmation of his alllegiance to the Crown in the following form, namely :—

I, A. B., having been elected a / having been appointed a / *having become an en-officio* member of this board do solemnly swear (or affirm) that I will be faithful and bear true allegiance to His Majesty the King Emperor of India, his heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter.

(2) Any person who having been elected or appointed a member of a local board or having become an ex-officio member of a local board fails to make within three months of the date on which his term of office commences *or at one of the first three meetings held after the said date,* the oath or affirmation laid down in sub-section (1) shall cease to hold his office and his seat shall be deemed to have become vacant.

No councillor or member to take his seat before taking oath.

5. Notwithstanding anything contained in the Madras District Municipalities Act, 1920, or the Madras Local Boards Act, 1920, or any other law for the time being in force, no person who has been elected or appointed a councillor or a member of a local board or who has become an ex-officio *councillor of a municipal council or an ex-officio* member of a local board shall take his seat at a meeting of the council or the local board or do any act as such councillor or member unless he has made the oath or affirmation as laid down in this Act.

Saving in the case of chairmen and presidents.

5-A. Notwithstanding anything contained in section 5, the chairman of a municipal council or the president of a local board, who has not made the oath or affirmation as a councillor or as a member of the local board as the case may be, shall be entitled to act as such chairman or president :

Provided that he makes the oath or affirmation and takes his seat at the first meeting of the council or board which he attends within two months after he is elected or appointed as, or becomes entitled to exercise the functions of the chairman or president, as the case may be.

Explanation.—For the purposes of this section.

(i) 'chairman' includes a vice-chairman exercising the functions of the chairman under sub-section (6) of section 12 of the Madras District Municipalities Act, 1920;

(ii) 'president' includes—

(*a*) the vice-president of a district or taluk board exercising the functions of the president of the board under sub-section (1) of section 18 of the Madras Local Boards Act, 1920,

(*b*) the president of the district head-quarters taluk board exercising the functions of the president of the districi board under sub-section (2) of the same section, and

(*c*) the temporary president of a taluk or union board appointed under sub-section (3) or sub-section (4) of the same section.

Saving of the Indian Oaths Act.

6. The provisions of this Act shall be applicable notwithstanding anything contained in the Indian Oaths Act.

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